

MEETING
STATE OF CALIFORNIA
AIR RESOURCES BOARD

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM, SECOND FLOOR
1001 I STREET
SACRAMENTO, CALIFORNIA

THURSDAY, NOVEMBER 18, 2010

9:00 A.M.

TIFFANY C. KRAFT, CSR
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APPEARANCES

BOARD MEMBERS

Ms. Mary Nichols, Chairperson

Dr. John R. Balmes

Ms. Sandra Berg

Ms. Doreene D'Adamo

Ms. Lydia Kennard

Mrs. Barbara Riordan

Mr. Ron Roberts

Dr. Daniel Sperling

Dr. John G. Telles

Mr. Ken Yeager

STAFF

Mr. James Goldstene, Executive Officer

Ms. La Ronda Bowen, Ombudsman

Mr. Tom Cackette, Chief Deputy Executive Officer

Mr. Bob Fletcher, Deputy Executive Officer

Ms. Ellen Peter, Chief Counsel

Ms. Lynn Terry, Deputy Executive Officer

Ms. Mary Alice Morency, Board Clerk

Mr. Nicholas Berger, Staff, Technical Evaluation Section,
SSD

APPEARANCES CONTINUED

STAFF

Mr. Rodney Hill, Staff Air Pollution Specialist, Process Evaluation Section, SSD

Mr. Wes Ingram, Alternative Fuels Section, SSD

Mr. Todd Sax, Chief, Mobile Source Analysis Branch, PTSD

ALSO PRESENT

Mr. Will Barrett, ALA

Ms. Nidia Bautista, Coalition for Clean Air

Mr. Peter Bransfield, Rypos, Incorporated

Mr. Luke Breit, Forests Forever

Mr. Hank de Carbonel, CA Pumpers

Mr. Luis Cabrales, Coalition for Clean Air

Mr. William Davis, Southern California Contractors Association

Mr. Todd Ellis, Imperium Renewables

Mr. Michael Endicott, Sierra Club California

Mr. D. Douglas Fratz, Consumer Specialty Products Association

Mr. Pedro Guzman, Clean Carwash

Mr. Henry Hogo, SCAQMD

Ms. Bonnie Holmes-Gen, ALA

Mr. Gregory Johnson, Sherwin Williams

Mr. Joseph Kubsh, Manufacturers of Emission Control Association

APPEARANCES CONTINUED

ALSO PRESENT

Ms. Barbara Losey, APE Research Council

Mr. James Lyons, Sierra Research

Mr. Dan Miller, Save Mart

Mr. Larry Milton, 21 Eagle

Mr. Simon Mui, NRDC

Mr. Brian Nowicki, Center for Biological Diversity

Ms. Betty Plowman, CDTOA

Senator Richard Polanco, Rypos Incorporated

Mr. Doug Raymond, National Aerosol Association, Radiator
Specialty, CRC, Ecolab

Ms. Catherine Reheis-Boyd, WSPA

Mr. Ralph Schulhe, 21 Eagle

Mr. Matt Scrap, California Trucking Association

Mr. Tom Sem, Proventia Emission Control

Mr. John Shears, CEERT

Mr. Mik Skvarla, Lucas Associates

Mr. Patrick Smith, Harris Ranch

Mr. Mike Shuemaker, CVTR

Mr. Bob Sweger, Stoner, Incorporated

Mr. Mike Tunnell, American Trucking Association

Dr. Barry Wallerstein, SCAQMD

Ms. Morgan Wyenn, NRDC

Mr. Joseph Yost, Consumer Specialty Products Association

Mr. Harry Zechman, Stoner, Incorporated

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1 PROCEEDINGS

2 CHAIRPERSON NICHOLS: Welcome, everybody. We are
3 pleased to welcome you to the November 18th, 2010, public
4 meeting of the Air Resources Board.

5 And I will ask you to come to order, please.

6 We customarily begin our meeting by saying the
7 Pledge of Allegiance to the flag, so if you could please
8 rise and join me, I would appreciate it.

9 (Thereupon the Pledge of Allegiance was
10 Recited in unison.)

11 CHAIRPERSON NICHOLS: Thank you.

12 The Clerk will please call the roll.

13 BOARD CLERK MORENCY: Dr. Balmes?

14 BOARD MEMBER BALMES: Here.

15 BOARD CLERK MORENCY: Ms. Berg?

16 Ms. D'Adamo?

17 BOARD MEMBER D'ADAMO: Here.

18 BOARD CLERK MORENCY: Ms. Kennard?

19 BOARD MEMBER KENNARD: Here.

20 BOARD CLERK MORENCY: Mayor Loveridge?

21 Mrs. Riordan?

22 BOARD MEMBER RIORDAN: Here.

23 BOARD CLERK MORENCY: Supervisor Roberts?

24 BOARD MEMBER ROBERTS: Here.

25 BOARD CLERK MORENCY: Professor Sperling?

1 BOARD MEMBER SPERLING: Here.

2 BOARD CLERK MORENCY: Dr. Telles?

3 BOARD MEMBER TELLES: Present.

4 BOARD CLERK MORENCY: Supervisor Yeager?

5 BOARD MEMBER YEAGER: Here.

6 BOARD CLERK MORENCY: Chairman Nichols?

7 CHAIRPERSON NICHOLS: Here.

8 BOARD CLERK MORENCY: Madam Chair, we have a
9 quorum.

10 CHAIRPERSON NICHOLS: Thank you very much.

11 I need to make the announcements about the
12 logistics here.

13 In case there is anyone who's planning to speak
14 who has not yet signed up and isn't familiar with our
15 procedures, we have a table outside the auditorium and you
16 can fill out a card. We appreciate it so we know how many
17 speakers we need to accommodate.

18 We will impose during the regular comment period
19 a three-minute time limit and ask people to just state
20 their name when they come up to the podium. And if you
21 have written comments, please submit them in writing and
22 just summarize them when you speak so we can save time.
23 And we can all learn better from reading than we can from
24 listening.

25 For safety reasons, I would appreciate it if you

1 would note the exits, the signs at the back of the room.
2 In the event of a fire alarm, we are required to exit this
3 room immediately, go down stairs, and out of the building
4 until the all-clear signal is given.

5 I think that's it as far as housekeeping is
6 concerned.

7 And we do have a number of items on our agenda
8 today, but before we get to them, I want to take just a
9 couple of minutes. It's been an amazing week for us with
10 the Governor's third climate summit taking place at U.C.
11 Davis in addition to meetings of ICAP, the International
12 Carbon Group, and the Western Climate Initiative. And I
13 think it's fair to say that the focus has been on
14 California this week for many reasons; obviously, the
15 results of the November election and the very large
16 victory for the no on 23, of course, has generated a lot
17 of excitement. Some people are immediately spinning it as
18 signs that California is about to fall into the ocean and
19 we've really taken leave of our senses.

20 But I think the greater majority of people who
21 commented on this have recognized that what happened here
22 was not necessarily a vote of endorsement for any
23 particular policy but a rejection of a campaign that was
24 designed to reverse or completely deviate efforts that
25 California has been making for many years to make our

1 energy system more efficient and more clean and I think a
2 recognition on the part of the people of California that
3 our future lies in the direction of clean technologies and
4 greening our economy. So all of those things are very
5 positive.

6 Obviously, it was a tremendous victory for
7 Governor Schwarzenegger and for the bipartisan coalition
8 that he helped to put together to run that campaign.

9 But what was interesting about the summit was the
10 collection of international leaders who came from every
11 continent on the planet to share stories of actions that
12 they are taking within their own jurisdictions to try to
13 make them more sustainable and just the really tangible
14 recognition that there are benefits to not only sharing
15 these stories, but to finding both policy and business
16 solutions that people can work on together. And the
17 blending of those two is really very dynamic, very
18 interesting, and culminating in signing of a Memorandum of
19 Understanding among about 30 of these leaders saying they
20 are going to continually work together under the osmosis
21 of a group called R20, which will focus on regional
22 solutions, not just highlighting the need for action or
23 some of the other international entities that have been
24 created; a new body really designed to work from the
25 grassroots up to try to demonstrate what can be done at

1 the State and local level. So that's pretty exciting.

2 But there is a lot of other exciting stuff going
3 on. And because we have in town here several people who
4 are coming to us from the other groups they're working on,
5 I want to just introduce. You've heard about all of these
6 folks before. I'm going to ask a couple of them to speak.
7 But I would just like to recognize and ask you to just
8 stand for a minute, a long-time friend and colleague from
9 the European Commission, Jill Duggan. Jill, where are
10 you? There's Jill in the back there. Currently based in
11 Brussels, but spends a lot of time in California. From
12 ICAP, we have Steve Anderson, the Chair. And from I
13 think -- Steve, there he is. There you go, sorry. And
14 then from the Western Climate Initiative, we have Robert
15 Noel de Tilly there. Not Robert. Excuse me. And Tim
16 Leslie of British Columbia who's worked with the Climate
17 Secretariat. And these are folks who have been working
18 with our staff for many, many months now crafting some of
19 the details of programs that I know you're all going to be
20 hearing more about as time goes on.

21 But I'd like to ask if you would, Robert and Tim
22 and Steve, to just come forward for share a few thoughts
23 with us, if you would, as we kick off our meeting.

24 MR. NOEL DE TILLY: Good morning, Ms. Chairman
25 Nichols and Board members.

1 So it's an honor and a privilege for me to be
2 here this morning and to address such a distinguished
3 audience. You know, twice in my life I've had the chance
4 to speak to policy makers outside of my country. And
5 twice it happened in California. Couple of years ago, I
6 had the chance to go to the State Capitol and address
7 policy makers and Senators and representatives. And
8 today, I'm meeting with the CARB Board members. So thank
9 you very much.

10 I've been involved in climate change policies now
11 for more than ten years, and collaboration is very
12 important for us, collaboration within our states and
13 provinces, but also our country and with the rest of the
14 world. And this is what California is doing here. And we
15 really like -- I had a chance twice in the last three
16 years to attend the Governor's Summit. And I can tell you
17 that your Governor has understood that collaboration and
18 partnership in climate change issues are very, very
19 important.

20 In Quebec, it's a small society, about eight
21 million people. But we already feel climate change. In
22 the northern part of our province that we call the Nunavik
23 where the Inuit live, it used to be the permafrost
24 country. But it's not permafrost anymore.

25 So we have invested -- the government of Quebec,

1 we have invested in housing there for 50 years. So these
2 people do not live in tents anymore. They live in modern
3 houses. But these houses were built on permafrost. In
4 the last 10, 15 years, the foundation of these houses have
5 been cracking so we have had to rebuild all the
6 foundations. So we have been investing in more than \$10
7 million for these population of about 15,000 people that
8 live in a very, very large territory. So climate change
9 is being felt everywhere in our society. And partnerships
10 is very, very important for us.

11 And now when we develop policy, you know, in our
12 country, in Quebec, we used to turn to the U.S. EPA for
13 inspiration, but we do not turn to them very much these
14 days. In the last six or seven years, we turn to
15 California. This is why. There is a big base here of
16 ideas and of very modern policies for climate change. And
17 it's important for us in Quebec to have this collaboration
18 and this dialogue of California.

19 And this is why we join WCI. I happen to have
20 the honor now of being the co-Chair with James of this
21 important organization. And we will be implementing a
22 program as of 2012.

23 So thank you very much, California, for giving me
24 the chance to talk to such a distinguished audience.

25 CHAIRPERSON NICHOLS: Thank you for being here.

1 Steve.

2 MR. ANDERSON: Thank you, Chairman. And thank
3 you for the opportunity as well.

4 I'd like to just echo much of what Robert
5 mentioned around the importance of partnership and
6 collaboration. That is the essence of the genesis of the
7 International Carbon Action Partnership. It was formed in
8 2007 largely to a great deal of the leadership and support
9 from the state of California. And there was a formal
10 launch in Lisbon in 2007. And the mandate for the
11 International Carbon Action Partnership are for those
12 jurisdictions both at a national and sub-national level
13 looking at developing cap and trade programs who already
14 have cap and trade programs actually implemented, such as
15 in European Union, or on the eastern coast of the
16 United States with RGGI. And we're sharing experiences
17 and best practices. And we're listening and learning from
18 one another, which helps inform our discussions and our
19 deliberations in our own respective jurisdictions, for
20 example, in British Columbia in the Western Climate
21 Initiative. So this ongoing dialogue has been
22 instrumental and continues to be instrumental as the world
23 moves forward and transition to a low carbon economy.
24 We've had a number of successes over the last few
25 years. We now regularly host ICAP summer schools for less

1 developed countries. We have students in on a two week
2 curricular program. We hosted one in Berlin, Germany this
3 year. We hosted one in Hague. After I finish the meeting
4 today, we're going to have our member meeting and work
5 program on what you want to continue building on the
6 momentum that we've had since 2007.

7 So I will keep my remarks brief, but again thank
8 you for the opportunity. I think it's important the state
9 of California has been doing this as it relates to climate
10 action. And it's been an inspiration for many other
11 jurisdictions as we move forward and continue in the
12 partnership.

13 CHAIRPERSON NICHOLS: Thank you. I believe the
14 origin of ICAP was in Lisbon when Portugal had the
15 residency of the European Union. And the first trip that
16 I got to go on when I came to this Board was to be at that
17 meeting with Secretary of Cal/EPA Linda Adams. And it was
18 amazing to see the array of world leaders who were there
19 and participated in that discussion. Every time we begin
20 to feel that we're alone or isolated in this effort, it's
21 always exciting to realize that we have a lot of help and
22 a lot of competition, but also very healthy and supportive
23 kind of competition.

24 Okay. Tim.

25 MR. LESLIE: Thank you, Madam Chair and Board

1 members. Thank you for giving me the opportunity to
2 briefly address you this morning.

3 The purpose of the WCI this week in meeting in
4 California I think carries on that spirit of collaboration
5 that we've seen. It has been an inspiration and all the
6 other activities that have been taking place as well as
7 seeing the progress that you're going to make today and in
8 the coming weeks in California on some of the issues that
9 we have been collaborating on over the last three and four
10 years, seeing it come to fruition and really begin to pay
11 off.

12 The collaboration continues within the WCI and
13 was very evident this week during our meetings. The
14 differences in opinions, some stronger, some coming closer
15 to consensus, but the spirit of collaboration and the
16 necessity of acting as a group is still strong within the
17 Western Climate Initiative. And I think that enabled us
18 to make significant progress.

19 This week, we addressed some foundational pieces
20 related to the original MOU between the Governors and
21 Premiers of the Western Climate Initiative. We had the
22 opportunity to look at the entire scope of that MOU and
23 begin to expand our thinking beyond what has occupied our
24 minds, as I'm sure you know, over the last few years, the
25 design of a retail market-based system. As that gets

1 closer and closer to reality, it gives us and our staff an
2 opportunity to look at what else can we do to make sure
3 that the MOU and our actions to address climate change are
4 truly regional and not just focused on a few sectors of
5 our economy.

6 We made significant progress on the mechanics of
7 the emissions tradings systems and have moved forward in
8 the area of offsets. As well, we continue to expand our
9 discussions with the Regional Greenhouse Gas Initiative,
10 some members of which were able to join us here in
11 California as well. So the collaboration is continuing to
12 expand and I think pay off, driven by your leadership and
13 our Governors and Premieres. I thank you for that and the
14 opportunity today.

15 CHAIRPERSON NICHOLS: Thank you for joining us
16 this morning.

17 Would any of the Board members like to ask any
18 questions of this group? Just nod.

19 Thank you for being here. And we will continue
20 to get reports from James as to the progress that's going
21 on here.

22 I get asked questions all the time about whether
23 any of this stuff is real. People can say yes, it's real.
24 Thank you.

25 Okay. Our first item of business here is a

1 consent calendar. We have several different items that
2 are on the consent where we had no indication of anybody
3 wishing to speak on these items and no particular
4 controversy. And I told the staff not to make a
5 presentation. But if any Board member has a question,
6 they're certainly welcome to raise it.

7 So we have the PM10 implementation and
8 maintenance plan and redesignation request for Sacramento
9 County. We have the approval of proposed Imperial County
10 8-hour ozone modified Air Quality Management Plan 2009
11 SIP. And we have two research proposals all in front of
12 us.

13 Is there any discussion on any of these items?

14 If not, I think I can ask for a motion to move
15 all three of them at the same time.

16 BOARD MEMBER RIORDAN: So moved.

17 BOARD MEMBER BERG: So moved.

18 BOARD MEMBER ROBERTS: Second.

19 CHAIRPERSON NICHOLS: Thank you very much. We'll
20 take care of those.

21 That moves us to the proposed amendment of the
22 ATCM for in-use diesel fuel ACTM TRU. We're talking about
23 airborne toxic control measures for transport
24 refrigeration units. Staff is proposing three amendments
25 to this regulation. These proposed amendments address two

1 key provisions that require action by December 31st, 2010.
2 Obviously, it's important that we take action on them
3 today.

4 And I will now turn over this item to our
5 Executive Officer, James M. Goldstene.

6 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
7 Nichols. Good morning, Board members.

8 Today, we're proposing for your consideration
9 amendments to the TRU regulation that address
10 time-critical issues for the implementation of the issue.
11 As you know, TRUs can operate at distribution centers in
12 significant numbers, exposing nearby residents to
13 unhealthy levels of diesel PM.

14 These changes are needed because they address
15 compliance requirements that became effective at the end
16 of the year. Staff plans to return to you midyear 2011
17 with additional proposed amendments that are not quite
18 ready but are time critical, but not as time critical as
19 the amendments before you today.

20 I'd now like to have Mr. Rod Hill of our
21 Stationary Source Division present staff's proposal for
22 the amendments to the TRU regulation.

23 Mr. Hill.

24 (Thereupon an overhead presentation was
25 presented as follows.)

1 enforce the regulations of in-use performance standards.
2 Requesting this authorization is required by the Federal
3 Clean Air Act, and it was approved January 16, 2009.

4 This approval came after the first in-use
5 compliance deadline, so ARB delayed its enforcement until
6 December 31st, 2009.

7 --o0o--

8 STAFF AIR POLLUTION SPECIALIST HILL: TRUs are
9 refrigeration systems that are powered by an integral
10 diesel engine used to control the environment of
11 temperature-sensitive products that are transported in
12 trucks, semi trailers, rail cars, and shipping containers.

13 Pictures of each of these types are shown here.

14 The engines in the truck TRUs shown in the right
15 picture are generally rated at less than 25 horsepower.
16 The engines in the trailer, rail car, and shipping
17 container TRUs are generally rated in the 25 to 50
18 horsepower category.

19 TRUs often congregate in large numbers at
20 distribution centers, such as those owned by major
21 retailers and grocery stores. The exposure of nearby
22 residents to diesel exhaust was a key driver in developing
23 this regulation.

24 --o0o--

25 STAFF AIR POLLUTION SPECIALIST HILL: Another

1 type of refrigerated transport system is refrigerated
2 shipping containers and trailers that go on ocean-going
3 ships. On ship, the refrigeration system is powered by
4 the ship's electricity. When these refrigerated shipping
5 containers and trailers come off the ship, they need
6 electrical power to run the refrigeration system.

7 To provide this power, a TRU genset is attached
8 to the shipping container or trailer when it is not on
9 board an ocean-going ship. The electrically-driven
10 refrigeration system can then be plugged into the
11 generator on the land leg of the trip.

12 TRU gensets are also affected by this regulation.
13 For the remainder of the presentation, when I use the term
14 "TRU", I'm also referring to both TRU units and TRU
15 gensets.

16 --o0o--

17 STAFF AIR POLLUTION SPECIALIST HILL: The key
18 requirements of the existing TRU ATCM are listed here. By
19 July 31st, 2009, all California-based TRUs were required
20 to be registered in ARBER, ARB's web-based registration
21 system.

22 Additionally, all California terminals were
23 required to submit an operator report by July 31st, 2009.

24 And all TRUs that operate in California,
25 including those based out of state, are required to meet

1 the TRU ATCM's in-use performance standards on a phased
2 compliance schedule.

3 Once a TRU engine reaches seven years old, it
4 must come into compliance with the in-use standards or be
5 replaced. All TRUs must eventually meet the most
6 stringent in-use standard.

7 --o0o--

8 STAFF AIR POLLUTION SPECIALIST HILL: Since the
9 TRU ATCM became effective, staff have been conducting
10 outreach training and have provided compliance assistance
11 to affected TRU owners and operators. We have also met
12 regularly with stakeholders on various compliance issues.
13 And we have developed regulatory advisories to clarify the
14 requirements and explain ARB's policies to provide
15 flexible compliance solutions.

16 Staff have worked with compliance technology
17 providers to assist their development efforts towards
18 verification of retrofit systems.

19 We have conducted and participated in compliance
20 technology forums.

21 ARB's equipment registration, or ARBER, has also
22 been developed. Over 100,000 units have been registered.

23 We maintain a toll-free help line to answer
24 questions about the control measure and provide
25 registration assistance. Staff estimates that we have

1 responded to over 8,000 calls.

2 Enforcement began in August 2009 for registration
3 requirements and in January of 2010 for the in-use
4 requirements.

5 --o0o--

6 STAFF AIR POLLUTION SPECIALIST HILL: Earlier
7 this year, we conducted a series of workshops to identify
8 and discuss options for addressing issues that have arisen
9 during the implementation of the TRU ATCM. Over 20
10 possible amendments were identified.

11 Staff realized based on the scope of the
12 amendments that a significant amount of work was needed to
13 fully address the economic, environmental, and public
14 health impacts of all the potential changes.

15 Staff concluded after the June workshop and
16 relayed to stakeholders that the best approach would be to
17 focus on the 2010 amendments on the most time critical
18 issues that needed resolution by the end of this year.
19 Today, we are proposing three amendments.

20 We will return next year in 2011 with additional
21 proposed amendments to address the broader issues that
22 require more work, including revisiting the seven-year
23 operational life requirement.

24 --o0o--

25 STAFF AIR POLLUTION SPECIALIST HILL: The next

1 few slides describe the three proposed amendments.

2 The first amendment applies to all model year
3 2003 TRU engines and only model year 2004 engines that
4 were rated at less than 25 horsepower. When the TRU
5 regulation was adopted in 2004, staff anticipated that
6 level three retrofit systems that reduce diesel PM by 85
7 percent would be available for TRU engines by 2010.

8 As a result, the original regulation required
9 that, beginning with model year 2003, TRU engines must
10 meet the ultra-low emission TRU in-use standard, what we
11 call ULETRU, by retrofitting with a level three control
12 device by December 31st, 2010. For model year 2004, the
13 original regulation required ULETRU to be met by December
14 31st, 2011.

15 We're proposing an amendment because only one
16 level three control system is currently available and the
17 supply is not sufficient to meet anticipated demand by the
18 end of 2010. To provide TRU owners with sufficient notice
19 on their options, we issued a regulatory advisory this
20 past summer.

21 The proposed amendments would allow model year
22 2003 and model year 2004 truck TRU engines to comply with
23 in-use standards by meeting either the ULETRU or the less
24 stringent low emission, or LETRU, standard.

25 The LETRU standard can be met by retrofitting

1 with a level two control system or by installing a new
2 Tier 4 engine. A level two retrofit will reduce PM
3 emissions by 50 percent.

4 If a TRU owner chooses to comply by retrofitting
5 with a level two control system, then they would still
6 need to comply with ULETRU seven years later in 2017 or
7 2018.

8 --o0o--

9 STAFF AIR POLLUTION SPECIALIST HILL: The second
10 amendment affects flexibility engines.

11 Federal and State off-road engine standard
12 regulations for new engines allow equipment manufacturers
13 to temporarily build and sell a limited amount of
14 equipment using engines that meet a prior tier standard.
15 Use of flexibility engines results in higher emissions
16 when compared to new engines that meet the standards in
17 effect at the time of manufacture.

18 The use of flexibility engines has been much
19 greater than expected.

20 The compliance schedule for TRUs is tied to the
21 model year of the engine. And since flexibility engines
22 meet a prior tier emission standard, the model year of the
23 engine is older than the year the engine was manufactured.
24 Thus, TRUs equipped with flexibility engines can have an
25 engine model year that is one to three years older than

1 proposed amendments also include a new requirement for TRU
2 manufacturers. The TRU manufacturers would be required to
3 report to ARB information regarding the equipment models
4 and the engines they are expected to be produced. This
5 information will help to improve the accuracy of statewide
6 engine and emissions inventories as well further
7 streamline the registration process.

8 --oOo--

9 STAFF AIR POLLUTION SPECIALIST HILL: The
10 emissions impacts related to these proposed amendments are
11 small. As the graph shows, the emission reductions would
12 be temporarily deferred until the 2017-2018 time frame.

13 We applied this change in estimated emissions
14 impacts to the original health risk analysis conducted for
15 the TRU ATCM and found that the change in the public
16 health risk is also negligible. These estimates are based
17 on the original TRU inventory, which is sufficient to
18 allow us to evaluate the impact of the proposed
19 amendments. However, in order to move forward on the more
20 significant amendments being considered for 2011, a new
21 inventory will be needed. As we develop this inventory,
22 there are several factors we need to consider.

23 For example, we know that compliance costs are
24 higher than originally anticipated. Additionally, ARBER
25 has shown us that the number of TRUs on California roads

1 is much higher than originally estimated.

2 We also need to assess the impact of a recession
3 on the TRU industry, bearing in mind that the refrigerated
4 goods sector has been negatively impacted, but to a lesser
5 degree than the dry goods or the construction sectors.

6 --o0o--

7 STAFF AIR POLLUTION SPECIALIST HILL: This slide
8 discusses the cost impacts of the amendments. The first
9 amendment results in a net savings of about \$310,000
10 statewide.

11 In Amendment 2, there are no costs to the end
12 user associated with flexibility engines.

13 For Amendment 3, the TRU manufacturers would
14 incur costs of approximately \$150,000 associated with
15 reporting data on flexibility engines and reporting the
16 unit and engine information.

17 --o0o--

18 STAFF AIR POLLUTION SPECIALIST HILL: Staff
19 recommends the Board approve the proposed amendments.
20 Staff also recommends the Board direct staff to issue an
21 implementation advisory to the affected industry,
22 explaining these amendments and to conduct outreach
23 efforts to existing owners of TRUs equipped with
24 flexibility engines to explain the use of the flexibility
25 engines manufacturer dates, compliance dates, and the need

1 to register their units with the ARBER.

2 Staff also recommends that the Board direct staff
3 to continue its efforts to work with TRU manufacturers on
4 the development of a reporting mechanism that provides the
5 data that ARB requires while being mindful of data
6 security needs.

7 Finally, we are recommending the Board direct
8 staff to return to the Board in 2011 with additional
9 proposed amendments to address industry concerns including
10 recommendations that consider extending the operational
11 life of TRUs.

12 This concludes staff's presentation of the
13 proposed amendments. Thank you.

14 CHAIRPERSON NICHOLS: Thank you.

15 Do you have any concluding remarks, Mr.
16 Goldstene, before we go to --

17 EXECUTIVE OFFICER GOLDSTENE: No. We look
18 forward to seeing if there are any questions. It seems
19 like it should be a simple rule, but it gets complicated.

20 CHAIRPERSON NICHOLS: It gets complicated.

21 Dr. Telles.

22 BOARD MEMBER TELLES: Thank you for the
23 presentation.

24 I have two questions. One, I notice that the
25 out-of-state TRUs aren't registered, but they have to

1 comply. How will you enforce that compliance? How do you
2 track an out-of-state TRU?

3 PROCESS EVALUATION SECTION MANAGER BOYD: Our
4 enforcement folks will track that out in the field. So,
5 for example, the enforcement activity takes place at
6 distribution centers and truck scales. If they observe a
7 non-compliance unit out in the field, the citation will be
8 issued at that point, when they're in California.

9 BOARD MEMBER TELLES: Is there some easy
10 recognizable way if you just drive by one of these things
11 and they have a decal on them or something?

12 PROCESS EVALUATION SECTION MANAGER BOYD: If they
13 voluntarily chose to register, we would have issued them
14 an identification number which they would have fixed
15 through their TRU. So that would provide an easy way to
16 identify the unit was complying at the time of
17 registration.

18 BOARD MEMBER TELLES: Thank you.

19 One final question on the seven-year life. How
20 did the staff come up with a seven-year life? Is that
21 based on the kind of natural deterioration of equipment or
22 based on some kind of regulatory number?

23 PROCESS EVALUATION SECTION MANAGER BOYD: We base
24 that on our efforts to align with the Diesel Risk
25 Reduction Plan that was adopted back in early 2000 to meet

1 specific emission reduction goals by 2020 looking at the
2 population out there. So that particular operational life
3 was established to align with that.

4 We also collected some data about what the
5 expected turnover was. And we had a range of turnover
6 between five years and ten years depending on how the
7 actual vehicle was used, whether it was a long haul truck
8 operation or a shorter operation.

9 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: This
10 is Dan Donohoue.

11 A couple other comments. With respect to looking
12 at useful life, there are a number of factors that go into
13 that, including the engines -- what is the life of the
14 engine, the compressors on the systems that are there and
15 the trailers itself. So it involved looking at all that
16 data.

17 There is a big difference between if you're a
18 long hauler or a short hauler as far as how quickly you
19 accrue those things. So there was a lot that goes into
20 that calculation.

21 We are going to, as part of the amendments, go
22 back and relook at all that information to make a new look
23 at what, in fact, is the useful operational life of these
24 engines. We did, in the original thing, believe that the
25 operational life of these engines on whole is around

1 ten years. For the regulation, we took into account the
2 cost of regulation reducing that as part of the cost of
3 the regulation to get a quicker turnover on the engine
4 sets that we get more quick emission reductions associated
5 with that.

6 CHAIRPERSON NICHOLS: Yes.

7 BOARD MEMBER BALMES: So I have an informational
8 question. Can somebody in the staff explain what the
9 flexibility engine is?

10 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHUE:

11 We'll maybe all three of us have a try.

12 Basically, it's an engine that's being built in a
13 later year, but it's being made to an earlier standard.
14 So if you have a transition between the tier engine one or
15 the other, it's built to an older, like a Tier 2 or Tier 3
16 when you're up at a 3 or 4.

17 And this has allowed under the off-road rule that
18 both EPA and ARB has to allow for certain low-volume
19 engines being made to be continued to meet that.

20 Now, the issue is they can be continued to be
21 made for up to seven years. And the volume of them is
22 somewhat limited, but it's kind of up to the manufacturer
23 to decide what source category they ended up putting those
24 in.

25 The interesting thing about this is what happened

1 here that we weren't aware of is 10,000 of those were
2 directed to the California market, which was an
3 exceptionally large number. 35-, 36,000 were directed to
4 the U.S. market. We did not anticipate based on past
5 experience that we would see that number of flexibility
6 engines and the potential for the duration there. So they
7 are new engines but built to an old standard.

8 BOARD MEMBER BALMES: Thanks.

9 BOARD MEMBER BERG: I'll go ahead and jump right
10 in.

11 CHAIRPERSON NICHOLS: Yes, please.

12 We're having a little AV issue here. I think we
13 can continue the conversation, but then want to take a
14 very short pause so we can allow for people who wish to
15 follow us by web to call in -- apparently the call in was
16 not available when we started the meeting.

17 So why don't we just finish up the Board
18 questions and then we'll take a very short break.

19 BOARD MEMBER BERG: Just so I understand the
20 compliance, on model year 2003 and model year 2004, the
21 compliance date is December 2010?

22 PROCESS EVALUATION SECTION MANAGER BOYD: Right,
23 for model year 2003 and model year 2004, less than 25
24 horsepower. Greater than 20 horsepower model year 2004.

25 BOARD MEMBER BERG: So at the conclusion of our

1 vote today, industry will have about 45 days to come into
2 compliance?

3 PROCESS EVALUATION SECTION MANAGER BOYD:

4 Correct.

5 BOARD MEMBER BERG: And then on model year 2005,
6 it's December 2011?

7 PROCESS EVALUATION SECTION MANAGER BOYD: 2005
8 would be 2012.

9 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHUE: In
10 December 2012. Add seven to the number. Actually, the
11 2004 date we talked to you earlier, that would be 2011.

12 BOARD MEMBER BERG: And how many of the ULE TRU
13 do we have in the pipeline going through the verification?

14 PROCESS EVALUATION SECTION MANAGER BOYD: We have
15 one ULE TRU device that has completed verification
16 conditional and is on the market right now. We are
17 working with another manufacturer on their level three
18 system. We are anticipating verification of that to occur
19 probably around the May time frame of this year.

20 BOARD MEMBER BERG: So one additional?

21 PROCESS EVALUATION SECTION MANAGER BOYD: One
22 additional.

23 BOARD MEMBER BERG: I think that's it for now.
24 Thank you.

25 BOARD MEMBER TELLES: Since we have a little

1 time, can I ask one more question?

2 CHAIRPERSON NICHOLS: Sure.

3 BOARD MEMBER TELLES: These filters that are put
4 on there, that will make the vehicle compliant for the
5 next seven years?

6 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOU: Yes.
7 The next seven years, if it's meeting the LE TRU standard.
8 If it meets the ULE TRU standard --

9 BOARD MEMBER TELLES: Are those filters
10 guaranteed for seven years with no additional cost to the
11 person or the company that buys them?

12 PROCESS EVALUATION SECTION MANAGER BOYD: No.
13 No. The warrantee period is typically about four years on
14 those. Four to five years is what the manufacturer will
15 offer. There are manufacturers here that can clarify
16 that.

17 BOARD MEMBER TELLES: So somewhere in there if
18 that device breaks down, that trucker may have to buy a
19 whole new system or the compliance cost for him might be
20 twice of what you estimate?

21 PROCESS EVALUATION SECTION MANAGER BOYD: There
22 may be some repair cost or replacement cost at the end of
23 the lifetime that would be experienced by the
24 owner-operator.

25 BOARD MEMBER TELLES: Is there an estimate on the

1 frequency that that's going to happen?

2 PROCESS EVALUATION SECTION MANAGER BOYD: We
3 don't have sufficient data available today to tell us what
4 the end of the life filler rate would be. These devices
5 are still fairly new.

6 BOARD MEMBER TELLES: We'll be voting on
7 something that's a little uncertain as far as the cost to
8 industry?

9 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHUE: Yes,
10 you are.

11 DEPUTY EXECUTIVE OFFICER FLETCHER: However, the
12 amendments that are being proposed reduce the costs
13 associated with compliance with this regulation. So that
14 seven years was there originally. And because of the
15 nature of the amendments, they would have had only five
16 years to replace. So now we're essentially extending that
17 time period for compliance. That is a structure of the
18 original regulation not associated with these.

19 CHAIRPERSON NICHOLS: Okay. I need to check with
20 staff as to how much time. Is five minutes enough?

21 BOARD CLERK MORENCY: Just one or two. They just
22 have to call the number.

23 CHAIRPERSON NICHOLS: We'll take a five-minute
24 break then. Thank you.

25 (Thereupon a recess was taken.)

1 CHAIRPERSON NICHOLS: We're ready to now hear
2 from the witnesses. And I will call you in groups so
3 you'll be ready to come up. And we will be imposing a
4 three-minute time limit on speakers. So we'll start with
5 Joe Kubsh from the Manufacturers of Emission Controls
6 Association and Tom Sem and Patrick Smith.

7 Good morning.

8 MR. KUBSH: Good morning, Madam Chair, members of
9 the Board.

10 My name is Joe Kubsh. I'm the Executive Director
11 of the Manufacturers of Emission Controls Association.
12 Our members include many of the manufacturers that have
13 verified retrofit technologies here in California with
14 your staff, including technologies verified for the TRU
15 applications that we're discussing here this morning.

16 I'm here to indicate that MECA supports the
17 proposed amendments that are before you today and
18 understands the need for provide additional flexibilities
19 for 2003-2004 model year TRU engines. Allowing these
20 engines to make use of available verified level two
21 technologies provides that flexibility to the end user
22 while still providing PM reductions. There are more than
23 4500 level two technologies that have been sold into TRU
24 applications here in California, and the experience so far
25 has been quite good.

1 Some initial glitches were quickly resolved by
2 one manufacturer. And there is a very extensive dealer
3 network available here in California to sell, install, and
4 service these technologies.

5 And as you already heard, the options for level
6 three retrofit technologies for TRUs are being expanded by
7 one manufacturer, and we expect that verification, as you
8 heard, to be completed in the coming year.

9 I just want to close by indicating that
10 regulatory certainty on these amendments is important and
11 needed to get engines off the sidelines and into
12 compliance and to protect the investments that
13 manufacturers have made to verify retrofit technology for
14 these TRU applications.

15 I'd like to thank the staff for bringing these
16 amendments forward. And we look forward to working with
17 the staff on the next set of amendments for next year.

18 And in conclusion, I would like to ask you again
19 to adopt the amendments that are before you. Thank you.

20 CHAIRPERSON NICHOLS: Thank you very much.

21 Tom Sem.

22 Mr. SEM: Good morning. My name is Tim Sem. I'm
23 the North American representative for Proventia Emission
24 Control. We manufacture the level two VDEX to fit the
25 Thermal King TRUs to make them compliant to the LE TRU

1 portion of the regulation.

2 And I submitted our sales and warrantee data
3 since the beginning of the project, beginning in '08 and
4 including the sales data up until this week in '10, and
5 also our warrantee summary, which we submit to CARB
6 annually just to indicate that the reliability of the
7 level two VDEX has been really good.

8 And my main point today is I just want to say
9 that we do have manufacturing capability to meet the
10 regulation if these amendments pass. In March of this
11 year, we moved our production from Europe over to
12 Minnesota so that we could respond more quickly to
13 customer demand.

14 CHAIRPERSON NICHOLS: You're getting closer, but
15 how about moving further west?

16 MR. SEM: My grandkids are in Minnesota.

17 So that's all. I just wanted to confirm that we
18 have the capability to ramp up as needed to meet customer
19 demand if the amendments pass.

20 CHAIRPERSON NICHOLS: Thank you very much.

21 Patrick Smith, followed by Dan Miller and Mike
22 Shuemake.

23 MR. SMITH: Good morning, Madam Chair, Board
24 members, staff.

25 My name is Patrick Smith with Harris Ranch, and

1 we are in support of the staff's proposal.

2 We tried to apply level three devices in 2003 and
3 older TRU with disastrous results, two different
4 technologies we had to resolve with level two. And it
5 still created problems. Even though it's verified
6 technology, the practical applications still has a lot of
7 problems. Unfortunately, we have a supplier that's very
8 proactive and very good to work with.

9 We would also strongly recommend that the Board
10 and staff consider a ten-year life. For most California
11 carriers, that TRU unit has a useful life of 25 years. A
12 ten-year life would help us tremendously.

13 We also need to develop a very strong working
14 relationship with the developers of this technology for
15 field testing prior to verification. We think we could
16 help perfect this technology when it's required by the
17 rules.

18 So thank you for your consideration.

19 CHAIRPERSON NICHOLS: Thank you. Sounds like a
20 good suggestion. Okay.

21 Dan Miller, Mike Shuemaker, and Larry Milton.

22 MR. MILLER: Good morning, Madam Chair, Board
23 members, and staff. My name is Dan miller. I'm Vice
24 President of Transportation for the Save Mart
25 supermarkets. I operate 250 stores in northern

1 California.

2 We agree with the proposed revision concepts
3 relative to the TRU engine. However, we would ask that
4 the due date be pushed out 90 days from December 31st,
5 2010, to March 31st, 2011. Due to the lack of ULE TRU
6 units for 2003 TRU units, the proposed changes to the
7 regulation and the fact that the proposed changes are not
8 certain to be voted on today by the Board, we need time to
9 react that does not affect our business.

10 Now is a very busy time of the year for our
11 companies as well as other companies that transport food
12 products. In order to comply with the due date of 12-31,
13 we would have to put trailers out of service and be unable
14 to satisfy our customers' demands during this critical
15 holiday season in these very difficult economic times.

16 Thank you for your time today and your
17 consideration of extending the due date to December 31st,
18 2010, to March 31st, 2011.

19 CHAIRPERSON NICHOLS: Thank you.

20 Mike Shuemaker.

21 MR. SHUEMAKE: Madam Chair, I'm Mike Shuemaker,
22 President of Central Valley Trailer Repair in Fresno.

23 I prepared three minutes' worth of speech and
24 decided I'm going to change that a little bit just to
25 clarify a few things that have been said today.

1 One of the things that was brought up was the
2 warranty on the existing VDEX. And it was said it was
3 four years. But most of the warranties on the VDEX are
4 also hours related at about 2600 hours, which for most --
5 most carriers, that relates to only a two-year usable life
6 warranty.

7 So to address your question, John, you don't have
8 really five years of warranty. You only have about two.
9 And in some cases, it's as low as one.

10 The field testing, there wasn't enough field
11 testing done on the LE TRU devices to get a good comfort
12 level for industry to be able to use the devices and feel
13 like they were going to work. We've been -- we're getting
14 into the LE TRU stuff and seeing some issues. We're
15 working through them with the manufacturers. And there
16 are only one device for over 25 horse power units.
17 There's only one device for each of the major
18 manufacturers. So we are in a little bit of a
19 monopolistic -- we're forced to use just one vendor for
20 the product.

21 Going forward, we really need to extend that
22 lifetime, the life cycle. The original Statement of
23 Reasons, it was 16 years for the off-road model from the
24 EPA. For some reason, staff decided to reduce that to ten
25 after talking about turnover. You can't -- turnover and

1 operational life or not the same. If a customer turns his
2 unit over -- when you trade your car in, they don't take
3 it to the scrap yard. They take it to the next guy that
4 wants to buy a cheaper car.

5 In our case now, because the way of the life
6 cycle -- the seven years, basically at the end of seven
7 years, you have to scrap that trailer. So we need to be
8 looking a lot harder at that, at minimum of ten years or a
9 one and done situation. Once you made the investment of
10 technology, we need to be finished.

11 Anyway, the rule that you're voting on today, we
12 have no opposition to. It's needed. It should have been
13 done a year ago. We talked about flexibility engines and
14 how they affected the marketplace a year ago to staff.
15 We've talked about the '03 and the fact that it is a less
16 tier engine than the '04 and it was going to be harder to
17 get the ULE TRU. Now we're down to the last 45 days
18 before compliance deadline and we're being forced into
19 this technology. I would urge you to extend it to March.

20 Thank you.

21 CHAIRPERSON NICHOLS: Thank you.

22 Larry Milton and then Senator Polanco.

23 MR. MILTON: Good morning, everyone. My name is
24 Larry Milton. I'm President of 21 Eagle.

25 I come back to California -- actually raised

1 here. Decided to come back to California to lead again
2 not only just the U.S., but the world, in technology and
3 energy conservation.

4 We actually have a technology that's available to
5 definitely exceed BACT standards. That is the best
6 available control technology that allows fuel to -- diesel
7 fuel. We can accommodate any of them, but basically
8 diesel fuel to burn completely. No toxins.

9 We have a test we've been going across the nation
10 we're doing. We ran some on the trucks we have available
11 here in the area that would not pass the emission
12 standards in the port of Long Beach.

13 We're working with some of the legislators. They
14 are very happy with the technology we have.

15 We're also going through which is the
16 verification process. We initiated it to show that it is
17 a product; no modification is required. We can meet all
18 of the standards that we're looking for today for the
19 ultra low emission. We can do all that in 2011. Because
20 it allows fuel to burn completely without the toxins, this
21 would allow anything downstream of here to actually
22 increase the life longevity of those components, including
23 the DPF filters as well the TRU units.

24 There is no carbon deposit release. We have some
25 municipal buses over 400,000 miles with no carbon

1 deposits. And we share that in the state of Louisiana.
2 Actually go to the website and see the videos that we've
3 done. That's where I was born. But I was raised here in
4 California. So I decided to bring it here so that we can
5 continue on with it.

6 Very favorable in China right now and also in the
7 southern Hemisphere. But what we would like to do is
8 definitely -- I would like to, Ms. Nichols, have you to
9 have some way to expedite the verification process so we
10 can actually have it done in 30 days. And you can see
11 across the board this works with aircraft, locomotives,
12 marine vessels as well. Because it's transformational
13 technology, it's going to change a lot of the things we're
14 doing at very economical extreme, economical level where
15 the state of California we can start with the savings the
16 first year in billions of dollars guaranteed.

17 Thank you very much.

18 CHAIRPERSON NICHOLS: Well, thank you. I hope
19 you'll present the information to our staff and they can
20 follow up with you on the suggestion that you made for the
21 process.

22 EXECUTIVE OFFICER GOLDSTONE: Chairman Nichols, I
23 notice Mr. Milton has two colleagues, Ralph Schulhe and
24 Armando Sinclair. I don't know if they're going to be
25 saying the same thing or not.

1 MR. MILTON: No, they won't be covering the same
2 thing.

3 CHAIRPERSON NICHOLS: Okay. They signed up to
4 speak, so we'll give them their time.

5 Senator Polanco followed by Peter Bransfield and
6 Pedro Guzman.

7 SENATOR POLANCO: Madam Chair, good morning.
8 Commissioners, thank you very much for the opportunity to
9 address you. I'm here today representing Rypos.

10 I will be very, very brief. First, I want to
11 acknowledge the leadership of the staff as well as the
12 Commission. We've come a long ways. My 16 years in the
13 Legislature, I remember legislating the bill that created
14 these kinds of economic studies and workshops. And so I'm
15 glad full circle to be here to present and express support
16 for the proposed amendments.

17 Having said that, we do want to bear light on the
18 very important note, which is there appears to be the
19 utilization of the recession as a means for delays and
20 postponements, outright stops of rule and regulation.

21 Proposition 23 is a classic example that went
22 before the voters. The measure was to delay, to stop the
23 regulation implementation of AB 32 for up until the
24 unemployment rate dropped to 5.5 percent. That's a
25 slippery slope. The recession we've had before in the

1 past in the state of California, this too will pass.

2 I think what we are here to ask is to look at
3 this in a comprehensive manner. We have public pension
4 funds throughout the country, our own here in California,
5 that is invested in these new clean technologies. The
6 CEO, who will present right after my presentation, is a
7 recipient as a result of those allocations that is
8 bringing the kinds of clean technology that is creating a
9 wealth of meaningful significant jobs. Over 50
10 dealerships have been created as a result of this one
11 company's efforts and presence here in California. Over
12 \$100 million has been invested in the areas of research
13 and development. Over two billion across the country
14 towards clean technologies.

15 I will close by saying that reliability and
16 stability of regulation is critical, not only to the
17 implementation of the work that you do all, but it's also
18 critical in sending the message to the business investment
19 communities. Certainty of enforcement is also essential,
20 and the need for the additional resources in order to
21 bring compliance is critical.

22 And so I close by saying on behalf of my client,
23 on behalf of the voters who spoke and send a clear message
24 saying to all of us that the key going forward, there is
25 no need to stop that of what is being implemented as it

1 relates to this very, very important issue.

2 I would ask that you give serious consideration
3 to adopting the rule, making sure that we don't go beyond
4 that of what is on the books from this point forward as it
5 relates to this particular issue of great importance.

6 Again, thank you very much for your leadership,
7 Madam Chair. You've been a strong advocate as well as the
8 members of this Board. I recognize former employee
9 Doreene. It's good to see you. Thank you, Lydia, for all
10 the work you've done in Los Angeles and your participation
11 there as the former Executive Officer. We appreciate it.

12 CHAIRPERSON NICHOLS: Thank you. Thanks for the
13 reminder.

14 Okay. Peter Bransfield and Pedro Guzman and then
15 Mik Skvaria.

16 MR. BRANSFIELD: Madam Chair, Board members,
17 thank you for the opportunity to speak.

18 My name is Peter Bransfield. I'm the CEO of
19 Rypos, Inc. We're a manufacturer and supplier of VDEX
20 equipment. Since May of 2008, we've delivered over 4600
21 verified LE TRU VDEX to the marketplace. These systems
22 have completed more than 11 million operating hours
23 resulting in capture and disposable of over 85 tons of
24 particulate matter.

25 We are supportive of the proposed amendment to

1 extend the compliance for LE TRU to the 2003 model year.
2 The Tier 1 engines incorporated in these model years are
3 identical for 1995 to 2002 model years and are therefore
4 appropriate candidates for LE TRU retrofit.

5 Engine replacement, rebuild, and exhaust retrofit
6 solutions are all available to the operators to become
7 compliant.

8 We are currently in an excellent supply position
9 with more than enough inventory and production capacity to
10 meet the near and long term market demand. We have
11 established channels and excellent geographic coverage for
12 sale, service and support in California and across the
13 country.

14 We're in an equally strong position regarding our
15 ULE TRU development effort. This modification allows us
16 to focus on Tier 2 engine emissions and postpone the need
17 for ULE TRU on Tier 1 engines until probably 2015. As a
18 result of this change, we are ready to begin immediate
19 trials of our two ULE TRU products with the goal of
20 achieving verification in early 2011. We're looking
21 forward to working with our customer partners and staff to
22 bring the most reliable and cost effective control
23 solutions to the market in a timely manner.

24 These ULE TRU VDEX are very nearly identical to
25 the LE TRU products in the field, with the exception of

1 the filter cartridge which is more efficient.

2 These units have amassed thousands of hours of
3 operation on our full scale development test stands.
4 Their modular design will also allow us to recycle LE TRU
5 VDEX and upgrade them to ULE TRU VDEX and significantly
6 reduce cost to the operators when compared with buying a
7 new unit.

8 As Senator Polanco mentioned, we made a
9 significant investment in the California market. And we
10 continue to invest in the ULE TRU market based on the
11 stability of the regulations.

12 There's been some discussion regarding the lack
13 of availability of compliance options for the operators
14 and lack of composition in the VDEX space.

15 There are several viable options available. I
16 believe there will be more in the coming months. There is
17 and will be competition. And this is an industry that
18 knows how to get the most out of their suppliers. The
19 refrigeration truck industry has thrived with only two
20 suppliers for transport refrigeration units for the last
21 30 years.

22 We've held our prices constant since launching in
23 2008, in spite of increased costs over that time. Our
24 dealer network provides multiple outlets for operators to
25 purchase, and we are looking forward to continuing to

1 support the market as we go forward.

2 I appreciate the opportunity to speak and your
3 dedication to the clean air. Thank you.

4 CHAIRPERSON NICHOLS: Thank you. We appreciate
5 your participation in this product. I know it's
6 difficult.

7 Pedro Guzman, Mik Skvarla, Matt Schrap.

8 Is Mr. Guzman here? No.

9 Okay. We'll hear from Mr. Skvarla.

10 MR. SKVARLA: My name is Mik Skvarla. I'm with
11 Lucas Advocates here on behalf of one of the two
12 manufacturers of TRU units. We appreciate the opportunity
13 to work with the ARB on this regulation and continue
14 working with them in the near future as they reopen the
15 reg in 2011.

16 We've expressed some concerns to the staff about
17 the strict confidentiality of the competitively sensitive
18 data required in the reporting requirements, and we hope
19 that this concern will be addressed when it reopens in
20 2011.

21 We believe that the option of reporting
22 mechanisms that are in this current update provide us the
23 possibility of working with staff and through the
24 Executive Officer to achieve compliance.

25 To that end, we appreciate the efforts by staff

1 and the Board on this subject and look forward to working
2 with you in the future.

3 CHAIRPERSON NICHOLS: Thank you.

4 Matt Schrap and then Ralph Schulhe.

5 MR. SCRAP: Good morning. I appreciate the
6 opportunity to come and present before you this morning.

7 My name is Matt Schrap. I'm Director of
8 Environmental Affairs at the California Trucking
9 Association. And we stand before you today to say we do
10 not oppose these amendments. We do recognize, however,
11 that there are serious challenges moving forward for any
12 users in this state and beyond.

13 When we talk about reliability, that is something
14 that our industry relies upon. Without equipment that
15 works, we're going to move into an area where food safety
16 becomes a problem, liability becomes a problem. We need
17 certainty that this equipment is going to be reliable.

18 We're not coming before you to ask for a delay.
19 We're not looking to push off requirements. What we want
20 is a sensible approach, a pragmatic approach towards
21 putting something in place that's going to be a
22 sustainable regulation that protects the end user, that
23 allows Mr. Jacobs to have a robust enforcement piece.

24 And from our perspective, we worked with staff.
25 We've worked with the engine manufacturers. We've worked

1 with the retrofit manufacturers. We've come and spoke to
2 several of you on the Board about a longer extended useful
3 life for this type of equipment. We look forward to the
4 next round of amendments when the serious work will have
5 to be done. We guarantee that we'll be working with staff
6 closely as well as the engine manufacturers as well as the
7 retrofit manufacturers. But we need to take a hard look
8 at how we're classifying this useful life of these
9 engines.

10 And again, we're not asking for a delay in the
11 standards. We're not trying to loosen the standards.
12 We're trying to come up with a pragmatic approach that's
13 going to work for everybody.

14 I appreciate your commitment. I appreciate the
15 staff's commitment towards coming up with a sensible
16 regulation that's going to work for all parties involved.
17 But we are very, very supportive of the extended useful
18 life.

19 And for carriers who are looking at an imminent
20 compliance date at the end of this year that some type of
21 additional time leading up until March 31st, 90-day
22 extension or 45-day extension on the LE TRU requirements
23 for 2003 should be pushed out so carriers aren't putting
24 in place enforcement actions when all the while they were
25 looking for some type of a reliable consistent regulation.

1 So as we move forward today, we're very
2 supportive of these amendments, as I mentioned, but I
3 think there is a lot of work that needs to be done. I
4 look forward to working with staff. But there should be
5 something that's put in place that extends the enforcement
6 window for these '03 LE TRU engines.

7 So with that, thank you.

8 CHAIRPERSON NICHOLS: Thank you. We appreciate
9 your very constructive comments.

10 Okay. Ralph Schulhe and then Armando Sinclair
11 and Michael Tunnel.

12 And those are the last witnesses.

13 MR. SCHULHE: Good morning, Chairman Nichols and
14 Board.

15 My name is Ralph Schulhe. I'm here -- I just
16 want to clarify I'm with 21 Eagle of Southern California.
17 We developed this company to basically do pilot program
18 testing on private fleets for 21 Eagle California. And we
19 basically formed a separate technology development and
20 sales for the technology implementation process of 21
21 Eagle's technology. So just to clarify that point.

22 We are currently testing that technology that
23 Larry Millton mentioned in two Fortune 500 companies
24 within the United States. We developed the testing
25 systems specifically designed to identify all

1 possibilities of diesel, biodiesel, and gasoline
2 emissions.

3 As you all know, may know, diesel fuel releases
4 37 toxins. Biodiesel releases 51. And what we've
5 discovered in our testing process is that with the
6 technology that 21 Eagle provides, we can reduce CO2
7 emissions down to .03; CO emissions down to .001; HO
8 emissions down to .002; and NOx levels down to .02 to .03.
9 This is with no retrofit technology. It's turnkey
10 technology.

11 Basically, we were able to show that with this
12 technology we removed 1,044 pounds of CO2 per truck that
13 we tested in these fleets. These fleets are not in
14 California. We are trying to develop more business in
15 California in order to basically bring this technology to
16 California.

17 But from what I understand in AB 32 and CARB, you
18 know, and what CARB does, from what I understand, CARB is
19 supposed to seek technology like this. And I'm hearing a
20 lot of talk about different filters and different TRU
21 systems and things like that. We have a technology
22 basically that will remove these carbon emissions, remove
23 these toxins without any filtration systems on newer
24 vehicles and newer systems that use diesel and older
25 systems that use diesel.

1 So basically, you know, I invite private
2 companies as well as California Trucking Association as
3 well as CARB to look into our product and really see what
4 it is we're doing and what we can do with this technology.

5 CHAIRPERSON NICHOLS: Okay.

6 BOARD MEMBER SPERLING: Quick comment. I just
7 have been searching the web internet diligently, and I
8 find no record of this company anywhere, except for the
9 names of a few people that have been linked in. There's
10 no web sites.

11 MR. SCHULHE: If you'd like to e-mail me, my
12 e-mail is Ralph@MX7technology.com. That's our website. I
13 can give you all of our website. We have certifications.
14 For example, MIT is certifying us as green technology.
15 We've done testing through Southwest Institute of
16 Technology, Hauser Laboratories. We've done testing
17 through multiple companies, and we do have all this
18 research.

19 There are many reasons for why the technology has
20 not really reached the general public, but I'd be happy to
21 disclose all this to you in private and see if there is a
22 way to push us through the verification process and get
23 this technology implemented.

24 CHAIRPERSON NICHOLS: This is a public meeting,
25 and the Board sits in public and we receive information

1 that any of you give to us. But we also don't negotiate
2 about approvals of technology in a session like this.

3 So we appreciate it if you bring your information
4 through the normal process. And if for some reason you
5 feel like you're not getting adequate response or we're
6 not looking appropriately, you're always free to write to
7 the Board members and tell us what you think the problem
8 is.

9 But nothing that we do is secret. And we
10 appreciate people who give us information that's also
11 publicly available. I think that's the point of the
12 comment by Professor Sperling is that normally when we
13 deal with companies that have technologies that have been
14 used, they tell us where, how, and give us the details.
15 So we'll look forward to receiving that from you.

16 Armando Sinclair and Michael Tunnell.

17 Either one of you here?

18 Michael.

19 MR. TUNNEL: Good morning, Chairman Nichols and
20 members of the Board and staff.

21 My name is Mike Tunnel. I'm here to testify on
22 behalf of the American Trucking Association. It's nice to
23 see everyone today, and I appreciate your interest in this
24 issue.

25 We acknowledge the necessity of the proposed

1 amendments before you today. The lack of viable ULE TRU
2 options and the nuances of the flex engine provisions
3 require action today to provide certainty to effected
4 fleets. We support the notion of pushing out the
5 compliance deadline a few months to allow additional time
6 for compliance. But as you've heard today, more work is
7 needed.

8 I offer the following observations regarding this
9 regulation. Engine repowers are the primary compliance
10 strategy used by nearly two-thirds of the affected units.
11 And retrofit technologies cost roughly two and a half to
12 three times higher than originally projected.

13 Given these higher than expected costs and a
14 preference for engine repowers, ATA urges the Board to
15 direct staff to further modify the regulation to eliminate
16 the current two and seven year compliance requirement and
17 instead align future compliance with the introduction of
18 new engines meeting the ULE TRU standard for the 25 to 50
19 horsepower category.

20 In addition, an extended compliance period should
21 be provided for fleets that have extended financial
22 resources complying with step one of the current two-step
23 process.

24 Finally, these modifications need to be made as
25 soon as possible in order to provide certainty to those

1 facing compliance decisions. And in looking at your
2 resolution, it looks like on page five, be it further
3 resolved, roughly addresses these issues. It's a little
4 unclear about the future compliance requirements and
5 whether the resolution is directing staff to look at those
6 issues as well. But we would appreciate you looking at
7 that.

8 I would just like to mention that it looks like
9 there has been an estimated 83 to 133 million already
10 spent on repowers and retrofits or will have been spent
11 through the end of the year. So there is a significant
12 financial commitment that has been already made to this
13 regulation. I really urge the Board and staff to try to
14 keep working on this and get the bugs worked out. Thank
15 you for your consideration.

16 CHAIRPERSON NICHOLS: Thank you very much.

17 All right. That concludes the witnesses, and so
18 now it's time for us to close the record. And we can do
19 that now. We have not heard any request for extension of
20 the comment period, so we will officially close the record
21 on this portion of Item 10-10-6. Any written or oral
22 comments received after this will not be part of the
23 official record.

24 We do normally now ask the Board members before
25 we move to a vote to disclose any ex parte communications

1 that they may have had. Our rule is that we are allowed
2 to, and in fact even encouraged, to communicate off the
3 record with persons regarding rulemakings. We have to
4 disclose those comments and the nature of any
5 communications on the record. This is specifically
6 applicable to communications that occur after a public
7 record, public agenda for a Board meeting has been
8 published.

9 So I will start by saying I have a monthly
10 meeting that I hold with representatives of the
11 environmental community here in Sacramento. It's a round
12 table discussion where they go over the agenda. So there
13 was some discussion about their concerns about this and
14 all the other items on the agenda, but no information that
15 hasn't already been discussed on the public record.

16 Is there anybody else that has any ex parte?

17 BOARD MEMBER TELLES: I have a weekly meeting
18 with the trucking industry and most commonly with Patrick
19 Smith. I'm thinking about this continuing because he
20 beats me every time in tennis. We did discuss the TRU
21 rule, but he beat me six to one that day, so I really
22 didn't hear what he said.

23 (Laughter)

24 CHAIRPERSON NICHOLS: Maybe he better consider a
25 more effective approach.

1 Anybody else?

2 Yes?

3 BOARD MEMBER RIORDAN: Yes, Madam Chairman

4 I met in Riverside with some of the members of
5 the CTA and the following: Matt Schrap with CTA, Rick
6 Miller, Mike Shuemade, and Patrick Smith. I'm going to
7 say that our conversation very much was reflected in the
8 testimony today, some of those gentlemen.

9 And ultimately before you vote, I do want to
10 bring to the table one idea that struck me as important.
11 Doesn't necessarily relate to what we are about today but
12 certainly into our future on this particular issue.

13 CHAIRPERSON NICHOLS: Okay. Ms. D'Adamo.

14 BOARD MEMBER D'ADAMO: On October 27th, in
15 Modesto, I met with Julie Saulis from CTA; Brian Long,
16 Foster Farms; Rick Mello, Northern Refrigerated
17 Transportation; Mike Shuemade, Central Valley Trailer;
18 Patrick Smith, Harris Ranch; Dan Miller, Smart
19 Refrigeration Transport; Bill Rawlings, Northern
20 Refrigerated Transportation.

21 And then on November 5th, the entire group in
22 addition of Matt Schrap from CTA. I asked for a meeting
23 with staff, and staff was in attendance at this meeting
24 with the same individuals.

25 CHAIRPERSON NICHOLS: Thank you.

1 Dr. Balmes.

2 BOARD MEMBER BALMES: I had a conference call on
3 November 16th with Gary Palanovick, Makeover,
4 Incorporated, and his client, Peter Bransfield, CEO of
5 Rypos, and our discussion was reflected in Mr.
6 Bransfield's presentation today.

7 CHAIRPERSON NICHOLS: Any others?

8 Ms. Berg.

9 BOARD MEMBER BERG: In abundance of caution, I
10 did have a meeting with MECA yesterday. However, the
11 meeting was in regards to the December meeting. But there
12 was some brief discussion on the TRU, and it was in
13 concert with the testimony we heard today.

14 And also I have been working with industry over
15 the last year regarding this item, but nothing within the
16 time frame of disclosure. My last meeting was on August
17 16th with CTA.

18 CHAIRPERSON NICHOLS: Thank you.

19 Well, we can turn this back to staff just to see
20 if they have any final comments on the testimony that we
21 heard. But I would start by saying that I really
22 appreciate the fact that, you know, these are tough issues
23 because of the timing as well as the cost. And we've got,
24 as we will be hearing much more next month, difficult
25 issues now because of the state of the economy. But every

1 one of these measures that apply to the trucking
2 industry -- and I'm struck by the fact there seems to be
3 very broad consensus around these particular proposals.
4 So that's nice. That's a good place to be. But there
5 have been a couple of specific additional proposals that
6 quite a few people have made in terms of short extension
7 on the compliance for the first round as well as this
8 issue about useful life. So I would like the staff to
9 comment on those.

10 EXECUTIVE OFFICER GOLDSTENE: Dan will make a few
11 comments.

12 CHAIRPERSON NICHOLS: Excuse me?

13 EXECUTIVE OFFICER GOLDSTENE: Dan will respond to
14 a few. Our Dan. Not Dr. Sperling.

15 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOU: With
16 respect to the issue of extending the compliance date out
17 until March 31, 2011, what staff would prefer to do is to
18 handle that administratively. We have been through this
19 before in different areas with respect to the regulation.
20 And the reason we prefer to handle it that way is we would
21 like to get these amendments out there and done and not go
22 back out to the 15 day thing.

23 What we certainly would be able to do in our
24 expectation is that we would move forward on trying to
25 issue contracts, get purchase orders out there. But we

1 would fully recognize that their delivering and
2 installation may not occur by the end of this year. And
3 it would be reasonable to take that into consideration as
4 we go through the process. And we believe we can handle
5 that both through administrative and enforcement
6 discretion, which we have had to exercise before on this
7 reg. So that's what I think on that, that's what we'd
8 ask.

9 With respect to the issue of extending the useful
10 operational life, that covers the entire regulation. And
11 that is a key issue that we've committed to coming back
12 and looking at in the next session and moving forward with
13 additional data to provide the economic, the
14 environmental, and the public health impact associated
15 with those across the board. So rather than trying to
16 deal with that on a one or two model year basis, we'd
17 prefer to bring that back with a new inventory with more
18 data coming out of our registration system to give you the
19 full scoop on what might happen with respect to that.

20 The only third point that was raised and we're in
21 agreement with this, and we have made efforts to try to do
22 that is to try to do some in-field testing hands-on. We
23 originally made an effort to do that in the 2005 time
24 frame. At that point in time, the market maybe wasn't as
25 mature. The individuals that were able to experiment with

1 that didn't come forward.

2 So we have tried to and we will continue to try,
3 and we think the next phase there will be more
4 participation on everybody's side, because we do
5 understand this is essential, particularly with respect to
6 the TRU area where you're dealing with equipment that is
7 sometimes dealing with 100 degree temperatures and other
8 times 32 degrees temperature in the ambient air, and those
9 create some unusual situations for this particular --

10 CHAIRPERSON NICHOLS: This is the item that Ms.
11 Riordan wanted to comment on.

12 BOARD MEMBER RIORDAN: Yes. What I came away
13 with from the meeting that I had with individuals that I
14 spoke to -- and that to me made good sense. And I'm glad
15 you've picked up on that, because I do think there is some
16 interest on my part and I would hope my colleagues as well
17 to make sure that those things that we are requiring and
18 asking of people to invest in that they function very well
19 in unusual climate conditions. I think that's a very
20 important thing.

21 And particularly if you've been in the central
22 valley in the middle of summer, you'll know what I'm
23 talking about. It's just boiling.

24 So we need to be sure that's all working, because
25 that is the location where much of the produce and sources

1 of food that we have throughout California and perhaps the
2 Western United States, that's one of the big areas of
3 production. And we need to make sure that those
4 commodities make it to the market in very good shape.

5 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE:

6 Right. And it's a totally different situation with the
7 TRUs in that if those don't operate, we have cargoes that
8 are extremely valuable and expensive. It's different than
9 the trucks on the side of the road I have.

10 CHAIRPERSON NICHOLS: Well, thank you for that
11 exchange.

12 Other comments?

13 Yes, Ms. Berg and then Dr. Sperling.

14 BOARD MEMBER BERG: I would be comfortable in
15 handling the enforcement administratively if I can get on
16 the record that you will, not you may.

17 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHOUE: We
18 will.

19 EXECUTIVE OFFICER GOLDSTENE: Ms. Berg, I'm the
20 one that has to actually sign the letter. And I will.

21 BOARD MEMBER BERG: Thank you.

22 CHAIRPERSON NICHOLS: All right.

23 BOARD MEMBER SPERLING: I have a question and
24 tell me -- kind of a request, but tell me if it's not
25 reasonable.

1 I get a little concerned about the nature of this
2 retrofit industry in part because I don't understand it
3 very well. Because partly I'm hearing some of the
4 compliance can be done through repowering and some of
5 the -- I look up some of the companies here and they
6 supply these filters both to the OEM industry as well as
7 the retrofit industry.

8 And I just -- you know, going back to what Mrs.
9 Riordan was talking about in terms of the reliability of
10 these, it's tied to the scale of the industry and the
11 technology and the commitment. I guess that's just not
12 for the TRUs, but for all of the retrofit technology.

13 Could we have a discussion at some point about
14 this industry and to what extent we can count on it for
15 reliability? There is some competition there. You know,
16 I haven't followed it closely, so if I'm completely off
17 base here and everyone knows the answer, then that's fine.

18 CHAIRPERSON NICHOLS: I think it's an issue of
19 concern always when we get into retrofit issues and, you
20 know, it's one that I've been thinking about for a long
21 time, having started my career in this area with the old
22 NOx retrofit program. So we've had a long history with
23 MECA and others in terms of how they've developed over the
24 years into major companies. And also the sort of -- for
25 lack of a better term -- dependency or codependency

1 relationship we have when we set standards and then the
2 industry tries to meet them. And then we send them
3 different signals, and suddenly we've made or broken some
4 very legitimate expectations. So it is tough.

5 But I think maybe, Tom, you might want to just
6 talk about this particular area.

7 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Well,
8 we can certainly present something to the Board in terms
9 of our experience to date.

10 But in a nutshell, the experience is very, very
11 good. We have tens of thousands of retrofits in the field
12 now for many years ranging from buses to trash trucks to
13 just about every kind of piece of equipment.

14 And in general, the filter technology is pretty
15 bullet proof. The problems that we've encountered have to
16 do with applications. Are they put on an engine that has
17 adequate temperature to cause them to burn off the soot
18 and generate? And even more importantly, is the engine
19 putting out a lot of excess particulate matter beyond what
20 it should be? In those cases, you have problems.

21 So it's more is the device applied appropriately
22 to a good solid engine and installed properly? That's the
23 issue.

24 You'll find there are examples everywhere where
25 you'll find problems. But the number of problems are

1 relatively low compared to tens of thousands of pieces of
2 equipment that are out there. And it's even been out in
3 Europe longer than that. And we have both on road and off
4 road in general really a success story.

5 But we're more than willing to try to put that
6 together in facts and figures. And although when you do
7 that, I'm sure you'll hear experience that this didn't
8 work on my piece of equipment and there were problems and
9 it had to be taken off and so forth, so on. But those are
10 relatively small compared --

11 CHAIRPERSON NICHOLS: What I'm hearing is a
12 request for a staff report on retrofits kind of more
13 broadly. And I think that might actually be an interest
14 to the Board members as a whole. And that might be a good
15 thing when we have a little break after the December Board
16 meeting when we're refreshed and learn some new things.
17 Let's look at scheduling something for the Board.

18 BOARD MEMBER D'ADAMO: I know there's always
19 bumps in the road, and many times it could be anecdotally
20 stories that you've heard.

21 But on this regulation in particular, I think it
22 gets back to the in-use application. There were quite a
23 few failures, and I know Rypos has done a good job in
24 going back and correcting those issues through warranty.

25 But none the less, there were a lot of failures.

1 And just underscoring what Mrs. Riordan brought up, I'm
2 particularly concerned about food safety issues because
3 the last thing we want to see is -- it's one thing to have
4 carrots go bad and another to have chickens go bad and
5 having it come back to ARB's regulations. So I think it's
6 important to do -- I appreciated Harris Ranch's offer and
7 I think we need to follow up on that.

8 But with respect to not just the failures but the
9 cost to industry of this regulation, it appears that we
10 were off the mark a little bit. And so when you go back
11 to look at the seven-year life, I just would like to
12 ensure that you're also looking at the issue of cost
13 effectiveness as you incorporate what we should do,
14 whether it should be seven versus ten years or whatever
15 figure you end up with reporting back to us on.

16 EMISSIONS ASSESSMENT BRANCH CHIEF DONOHUE: We
17 will, Ms. D'Adamo.

18 CHAIRPERSON NICHOLS: All right. With that,
19 oh --

20 BOARD MEMBER TELLES: I have a personal story.

21 CHAIRPERSON NICHOLS: Okay.

22 BOARD MEMBER TELLES: And with this, I'd like to
23 frame how important this regulation is. But it's about 30
24 years too late.

25 Through high school and college, I worked on a

1 shipping dock, cantaloupe packing plant in Firebaugh,
2 California, and I can testify how much emissions are on
3 there. And these areas would be like heat islands and
4 often the temperature would be about 125 degrees on the
5 dock. And on one side, we'd have the railroad cars with
6 their big diesels and the other side would be the trucks
7 and with their big diesels. They were also idling at that
8 time, not just their TRUs going. So it does have a huge
9 health impact on the people who work on those docks. I
10 remember at the end of the day just blowing your nose, it
11 would look like you were working in the coal field or
12 something. So I think it's a very important regulation.

13 But having said that, I also note that most of
14 the trucks that come into those docks are kind of small
15 owner/operator type folks that have a very hard time
16 complying with not just this regulation, but all the other
17 regulations that these are all additive onto what they
18 have to do.

19 And having said that, I think it's important to
20 consider this longer life issue. And I guess we're going
21 to go back to that next year or something. Because I
22 think some of the smaller organizations and companies that
23 take the commodities out of the San Joaquin Valley are
24 going to have a hard time complying with this and other
25 things coming down the line. I strongly would like to

1 relook at the ten year thing next year.

2 CHAIRPERSON NICHOLS: Okay. Well, thank you. I
3 think we're ready now to vote on this one. It sounds like
4 we have consensus, but we do need a formal motion.

5 BOARD MEMBER D'ADAMO: I move adoption of
6 Resolution 10-39.

7 CHAIRPERSON NICHOLS: Thank you.

8 BOARD MEMBER BALMES: Second.

9 BOARD MEMBER RIORDAN: Second.

10 CHAIRPERSON NICHOLS: All in favor, please say
11 aye.

12 (Ayes)

13 CHAIRPERSON NICHOLS: Any opposed?

14 Very good. It carries unanimously. Thank you.

15 We have next adoption of proposed amendments to
16 the California Consumer Products regulation and the method
17 used to test consumer products for compliance.

18 As part of this, we also asked the staff to
19 provide us with an update on the Green Chemistry Initiative
20 that's moving forward by a sister agency, the Department
21 of Toxic Substances Control. The reason for that is
22 simply that as time goes on, we may see increasingly a
23 shift towards a more holistic approach to the chemicals
24 that are used in the consumer products and away from
25 product regulations.

1 But we, nevertheless, are in a situation where we
2 need to continue looking at the volatile organic compound
3 emissions from these products in order to meet our
4 commitments under the State Implementation Plan. In fact,
5 we were just reminded very recently by U.S. EPA when they
6 partially disapproved our implementation plan for the San
7 Joaquin Valley that they believe that VOC reductions are
8 essential to the effort to meet the ozone and fine
9 particle standards in the valley. So even though a lot of
10 our focus lately has been on particles and NOx as a
11 precursor, VOCs are still out there. There's a lot of
12 them, and they play an important role in meeting the
13 health standards. So we do need to pay attention.

14 So after we hear from our staff, we are going to
15 be joined by my colleague, Maziar Movassaghi, who is the
16 Acting Director of the Department of Toxic Substance
17 Control, to give us some perspective on their initiative
18 as well.

19 And with that, I will turn it over to Mr.
20 Goldstene.

21 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
22 Nichols.

23 Staff is proposing amendments to the consumer
24 products regulation that will affect several product
25 categories. When in effect, the VOC emissions will be

1 reduced by about 6.9 tons per day statewide.

2 Changes to the compliance testing method are
3 being proposed to add procedures for the analysis of the
4 volatile organic compound content of recently regulated
5 products.

6 At the end of the regulatory presentation, we'll
7 provide a brief update on a related effort by the
8 Department of Toxic Substances Control -- and Moziair will
9 do that -- to develop a safer alternative to regulations
10 under the Green Chemistry Program.

11 I'll ask Nicholas Berger from our Stationary
12 Source Division to present the staff presentation.

13 Nicholas.

14 (Thereupon an overhead presentation was
15 presented as follows.)

16 MR. BERGER: Thank you, Mr. Goldstene, Chairman
17 Nichols, and members of the Board.

18 Today, we are proposing for your consideration
19 amendments to the California consumer products regulation.

20 --o0o--

21 MR. BERGER: My presentation will follow this
22 outline. Note that in addition to summarizing our
23 proposal, we will also give you a very brief update on the
24 Green Chemistry Initiative being implemented by the
25 Department of Toxic Substances Control.

1 --o0o--

2 MR. BERGER: I will begin with a brief background
3 on the consumer products program.

4 --o0o--

5 MR. BERGER: Consumer products are defined in
6 state law as chemically formulated products used by
7 household and institutional consumers.

8 Examples of consumer products are listed on this
9 slide. Most of the products included in the proposal
10 today are considered cleaning products.

11 --o0o--

12 MR. BERGER: Consumer products are an important
13 volatile organic compounds, or VOC, source. Previous
14 consumer products regulations have already resulted in
15 reducing VOC emissions by 225 tons per day.

16 Despite this reduction, it is estimated that
17 current VOC emissions from consumer products are about 12
18 percent of the overall statewide VOC inventory.

19 --o0o--

20 MR. BERGER: State law requires ARB to achieve
21 the maximum feasible reduction in VOCs from consumer
22 products.

23 The regulation must be technologically and
24 commercially feasible and not eliminate any product form.
25 Reduction of VOC emissions from consumer products is an

1 important part of the 2007 State Implementation Plan, or
2 SIP, to attain ambient air quality standards for ozone.

3 I will describe the consumer products SIP
4 commitment next.

5 --o0o--

6 MR. BERGER: As you can see, the proposal before
7 you today represents an important step towards meeting the
8 30 to 40 tons per day target.

9 Adopted rulemakings from 2008 and 2009 will
10 result in over 19 tons per day of reductions once fully
11 effective.

12 If approved today, these amendments would
13 contribute an additional 6.7 tons per day toward our goal.

14 We plan to bring you a proposal next year to
15 achieve the additional reductions needed to meet the 2014
16 goal.

17 --o0o--

18 MR. BERGER: I will now summarize the proposed
19 amendments.

20 --o0o--

21 MR. BERGER: The eight proposed amendments were
22 developed with extensive public participation.

23 Initially, surveys were conducted, which serve as
24 the basis of our proposal.

25 We conducted three public workshops and held

1 numerous individual meetings and teleconferences with
2 stakeholders. We also consulted with other State agencies
3 on aspects of our proposal.

4 --o0o--

5 MR. BERGER: As an overview, the proposed
6 amendments would set new or lower VOC limits for eleven
7 categories of consumer products.

8 Other amendments would prohibit use of certain
9 toxic compounds and compounds with high global warming
10 potentials in certain categories.

11 To implement the VOC limits, we are proposing new
12 and modified definitions. In addition, we are proposing
13 to clarify and streamline several existing regulatory
14 provisions.

15 Proposed amendments to method 310 would add
16 additional VOC testing procedures for recently regulated
17 products.

18 --o0o--

19 MR. BERGER: This is the first of two slides
20 which summarize the proposed VOC limits and emissions
21 reductions. The limits would become effective on December
22 31st, 2012, or December 31st, 2013. All of the categories
23 on this slide are currently regulated. We are proposing
24 lower limits --

25 --o0o--

1 MR. BERGER: -- and continuing with more
2 categories and proposed limits. The special purpose
3 lubricant category is currently not regulated.

4 The proposed limits, when fully effective, would
5 achieve about 6.9 tons per day of VOC reductions
6 statewide.

7 Note that 6.7 tons per day will be creditable
8 toward the current SIP and an additional 0.2 tons per day
9 would count towards a future commitment.

10 --o0o--

11 MR. BERGER: I would next like to describe the
12 several key amendments.

13 --o0o--

14 MR. BERGER: We are proposing to expand the
15 existing oven cleaner category to include grill cleaner
16 products and raise the VOC limit from one to four percent
17 for non-aerosol products. This proposal is designed to
18 allow use of non caustic technologies. This change would
19 result in a small increase of 0.1 tons per day, which is
20 offset by other lower VOC limits under consideration
21 today.

22 --o0o--

23 MR. BERGER: We are proposing to incorporate spot
24 remover products used on dry clean only fabrics into the
25 currently regulated spot remover category. These are

1 primarily products used at dry cleaning operations. To
2 accommodate the necessary time for these products to
3 reformulate, we are proposing to extend the upcoming
4 effective date until 2012. This delays about a quarter
5 ton per day reduction but will not impact the SIP
6 creditable reductions.

7 As part of the proposal, these new products would
8 need to comply with the existing prohibition on use of
9 toxic chlorinated solvents.

10 --o0o--

11 MR. BERGER: For certain categories, the proposed
12 amendments would prohibit use of methylene chloride,
13 perchlorethylene, and trichloroethylene.

14 Compounds with global warming potential values at
15 or above 150 and alkylphenol ethoxylates and factoids.
16 These proposed mitigation measures are designed to address
17 potential health or environmental impacts.

18 --o0o--

19 MR. BERGER: I will now summarize the impacts of
20 this proposal.

21 --o0o--

22 MR. BERGER: Staff conducted an economic analysis
23 of the costs to comply with the VOC limits. As shown, we
24 believe the proposed amendments are highly cost effective.
25 The cost of 98 cents per pound of VOC reduced is among the

1 lowest ratios for consumer products rulemakings.

2 We also determined that the average increased
3 cost for a consumer to purchase a product would be about
4 six cents. The total statewide cost for industry to
5 comply with the proposed amendments is about \$5 million
6 per year.

7 --o0o--

8 MR. BERGER: This proposal would have overall
9 positive impacts on the environment because the 6.9 tons
10 per day VOC reduction would contribute to reducing ground
11 level ozone concentrations.

12 In addition, co-benefits of this proposal would
13 prevent potential exposure to carcinogens, minimize
14 potential climate change impacts, and provide protection
15 to aquatic organisms.

16 This proposal, along with the proposed mitigation
17 measures, would not result in any significant adverse
18 impacts. This is the last slide on the staff's proposal
19 outlined in the staff's report. However, we do have some
20 suggested modifications to our original proposal which I
21 will describe next.

22 --o0o--

23 MR. BERGER: We are proposing to reorganize the
24 special-purpose lubricant category to clarify the types of
25 products included. This may entail adding or modifying

1 We are also in the process of beginning a survey
2 of the industry. The survey results will serve as the
3 basis for proposals to achieve the remaining reductions
4 needed to meet the SIP commitment. We anticipate bringing
5 you this proposal next year.

6 This concludes our summary of the proposal and
7 activities planned to meet the SIP commitment. I will now
8 move on to the staff's recommendation.

9 --o0o--

10 MR. BERGER: Staff recommends adopting the
11 proposed amendments with the modification suggested today.

12 Next, I will provide an update on the Green
13 Chemistry Initiative.

14 --o0o--

15 MR. BERGER: Much has happened since July 2008,
16 when you were last given an update on the Cal EPA's Green
17 Chemistry Initiative by the Department of Toxic Substances
18 Control staff.

19 Governor Schwarzenegger signed green chemistry
20 legislation in September 2008. As required by the Health
21 and Safety Code, the Department of Toxic Substances
22 Control is preparing to adopt safer alternatives
23 regulations. The definition of consumer products under
24 this program is broad, with few exclusions, and can
25 include such products as baby bottles and jewelry.

1 MR. BERGER: Here is an overview of the key
2 components to the proposed safer alternatives process
3 regulation.

4 If the proposed regulation is adopted in its
5 current form, manufacturers of priority products will
6 prepare an assessment that identifies the mitigation
7 strategies the manufacturer intends to implement.

8 After review of the assessment report, the
9 Department may impose on the manufacturer regulatory
10 responses, such as making product information available to
11 the consumer or end-of-life management requirements.

12 --o0o--

13 MR. BERGER: The regulations give manufacturers
14 the responsibility to develop safer products using a life
15 cycle multi-media approach.

16 This compliments ARB's consumer products mandate,
17 which is focused narrowly on the ingredients in a finished
18 product that contributes to the formation of ground level
19 ozone.

20 We collaborated with the Department staff during
21 development of the regulation to ensure that there would
22 be no overlap or conflict with goals of our program.

23 We will continue to work closely with our sister
24 agency as the regulations are implemented.

25 The next slide has contact information and the

1 Department's website address.

2 --o0o--

3 MR. BERGER: At this point, we would like to
4 invite Mr. Movassaghi, Acting Director of the Department
5 of Toxic Substances Control, to say a few words about the
6 program.

7 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
8 DIRECTOR MOVASSAGHI: Good morning, members of the Board.

9 My name is Moziar Movassaghi. I'm the Director
10 of the Department of Toxic Substances Control. It's an
11 honor to be before you today, because we've had the
12 pleasure of truly working in a collaborative fashion with
13 ARB staff over the past two years on a whole variety of
14 issues, from technical issues to legal matters,
15 development of the rulemaking process, and also expanding
16 our knowledge of the daunting challenges before us.

17 As we move forward, there is much that we need to
18 work on. There is significant data gaps, significant
19 safety gaps, significant technology gaps. And it's going
20 to require the collaboration of different environmental
21 agencies for us to leverage and use our different tools
22 together, share data, share knowledge, share best
23 practices, in order to really be able to achieve our
24 mutual goal of a sustainable, healthy, and functioning
25 California.

1 I want to really congratulate ARB staff for their
2 proposal today for dealing with VOCs in consumer products,
3 and there is a full commitment from DTSC to continue
4 working with ARB to make sure that California consumers
5 have access to safe and workable products.

6 CHAIRPERSON NICHOLS: Thank you.

7 Obviously, you're just at the beginning of a long
8 journey here, but the California legislation that you are
9 implementing is very comprehensive and I believe in this
10 country perhaps the first of its kind. Do you want to
11 talk a little bit about that?

12 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
13 DIRECTOR MOVASSAGHI: Absolutely. This focus on
14 alternatives assessment and California is the first
15 governmental body to attempt to bring this within a
16 regulatory structure and implement it.

17 This issue itself is a very big challenge, and
18 we've actually been contacted by a number of international
19 regulatory entities looking at how we propose to tackle
20 this very big issue.

21 In addition, as was mentioned by staff, the
22 definition of consumer products in the underlying statute
23 was also very broad with the intent of -- I want to echo
24 what the Chairwoman said -- that the idea is to be more
25 multi media life cycle impact and be holistic in what we

1 look at. American Chemistry Council's own data indicates
2 that global chemical production will double every decade,
3 far faster than the rate of population growth. And we
4 really do need to have this ability with the different
5 regulatory entities to work collaboratively as we move
6 into the future.

7 CHAIRPERSON NICHOLS: As I look around for people
8 who have jobs as tough as mine, I always think of you,
9 Maziar. Thank you for the good work you're doing.

10 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
11 DIRECTOR MOVASSAGHI: Thank you.

12 CHAIRPERSON NICHOLS: Any questions? Comments?
13 If not -- oh, one.

14 BOARD MEMBER SPERLING: So to what extent is
15 there collaboration/interaction with EPA, for instance?
16 And that's with respect to this rule here that we are
17 doing. I mean, are we -- to what extent are we really
18 reaching out and/or are they following, either way?

19 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
20 DIRECTOR MOVASSAGHI: Are you referring to the federal
21 EPA?

22 BOARD MEMBER SPERLING: Yes. I'm sorry. The
23 federal EPA. What I assume is the entity that would be
24 involved with this.

25 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING

1 DIRECTOR MOVASSAGHI: There have been discussions of
2 reforming the Federal Toxic Substances Control Act that
3 was established in 1976 and has not been touched since
4 1976.

5 The two proposals right now complement what we
6 are doing here in California, but they're not necessarily
7 covering what we're covering with our Green Chemistry
8 Initiative, which is to focus not only in identifying
9 hazards, but also looking for safer alternatives to known
10 profits.

11 So what we're trying to work out with the U.S.
12 EPA is the amount of data sharing where they would share
13 data with us about where chemicals are, information about
14 hazards, and we would, in return, share information about
15 safer solutions to known hazards identified by U.S. EPA.

16 CHAIRPERSON NICHOLS: Dr. Balmes.

17 BOARD MEMBER BALMES: Well, just one other
18 comment with regard to Professor Sperling's question.

19 I think the recent election results will make the
20 task of reform less likely in the next session of
21 Congress. But the federal EPA does have a high level
22 physician like Paul Menaskis (phonetic), who actually was
23 on the Green Chemistry Panel that advised DTSC that I was
24 also on a few years ago.

25 So I think within the agency, there is very much

1 interest in what we're doing here in California. And I'm
2 sure they would like us to continues to be trail blazers
3 in this regard.

4 CHAIRPERSON NICHOLS: Yes. And among the
5 challenges that DTSC faces in implementing this very
6 ambitious proposal, of course, is the issue of financing.
7 There were no additional resources. When we embarked on
8 climate protection, the Legislature also gave us
9 additional positions and we were able to bring in some
10 experts and wonderful people to help us develop the
11 regulation, whereas, DTSC is under the gun and has
12 deadlines, but no additional resources to do this with.

13 So I don't maybe we should put you on our
14 Christmas list. But I think seriously that the importance
15 of this initiative really is hard to overstate. It's
16 similar to what happened we first began to make the
17 link between pollution and energy use and to go back to
18 the root causes of the things that we all worry about if
19 we're going to have meaningful regulatory reform or
20 streamlining, which everybody agrees we need to do. We
21 all know whether you're on the left or the right that
22 regulation and regulatory burden is an issue that people
23 have to deal with. The question is how you make sense out
24 of it given the needs of society and the demands of the
25 public.

1 One of the most important things we can do is to
2 understand what the causes are and how to get to safer
3 alternatives. And we're really just at the beginning of
4 that in the area of chemistry. So I know ARB staff has
5 been collaborating with DTSC to the extent that they are
6 able to do it and I'm sure other agencies will be as well.
7 But I just want to highlight the importance of this effort
8 as well the challenge, because I think it's really is
9 going --

10 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
11 DIRECTOR MOVASSAGHI: If I could say, the President's
12 Cancer Panel February of this year released a report, and
13 their entire focus of the report was the environmental
14 risk factors that impact cancer. And their basic
15 recommendation was a call for regulatory proposals, such
16 as the Green Chemistry Initiative here in California. And
17 I would like to point to the two members of the panel that
18 authored the report and were responsible for it were Bush
19 appointees. So this does have a bipartisan support in
20 scientific review.

21 CHAIRPERSON NICHOLS: That's great to hear.

22 Dr. Balmes.

23 BOARD MEMBER BALMES: Well, just one other area
24 that your comments, Chair Nichols, prompted from me is
25 that DTSC has supported efforts at U.C. Berkeley to

1 develop a Center for Green Chemistry, and we appreciate
2 that. And UCLA also has been working in the green
3 chemistry area.

4 So I think it's a field that people are paying
5 attention to. And one of the things that DTSC has been
6 supporting at Berkeley is curricular changes for chemistry
7 majors so that chemists are now trained to think about
8 sustainable alternatives.

9 CHAIRPERSON NICHOLS: Ms. D'Adamo.

10 BOARD MEMBER D'ADAMO: So I have not followed
11 this. So forgive me if I'm asking elementary questions
12 here.

13 But on the Green Chemistry Initiative, is this
14 entirely a regulatory approach or are you also looking at
15 consumer information and consumer labeling in order to
16 encourage consumers to -- maybe there is a safer
17 alternative that would be a regulatory standard, but
18 perhaps a safer A+ standard that the consumer would like
19 to know about so they can make choices.

20 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
21 DIRECTOR MOVASSAGHI: Your question is very good. And
22 building on what Dr. Balmes said, the Green Chemistry
23 Initiative itself is a comprehensive initiative. It has
24 six different planks. The safer consumer product
25 alternative regulation is only one of those six planks.

1 Another one was mentioned by Dr. Balmes was
2 making sure that tomorrow's graduates out of the U.C.
3 system are knowledgeable about that. But also to expand
4 our pollution prevention events which really actually
5 focus on disseminating information up and down the supply
6 chain so consumers, as you mentioned, have the ability to
7 decide what they want to buy, but also retailers for them
8 to have access about what they're buying from their
9 vendors and also the folks who are the technical people in
10 manufacturing companies to have access to information
11 about safer alternatives.

12 If I could give a very brief example of something
13 that's worked completely out of the non-regulatory realm.
14 Pharmaceuticals are exempted from this statute. Pfizer in
15 their one of their global R&D facilities down in La Jolla
16 has these little magnets they have on top of all the
17 chemists' sinks that breaks down solvents into a red,
18 yellow, green category. Green being least harmful and red
19 being most harmful to humans and the environment. Over
20 the past three years, they've recognized a 60 percent drop
21 in the solvents in the red category.

22 So what we're really going for is a design
23 change, to modify the behavior of the folks that make our
24 products to make them benign by design at the initial
25 stage.

1 CHAIRPERSON NICHOLS: Yes?

2 BOARD MEMBER BERG: And could you just elaborate
3 on how the regulatory part comes in? Who exactly are you
4 going to be regulating and going to be helping with
5 pushing this initiative forward?

6 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
7 DIRECTOR MOVASSAGHI: Absolutely. Underlying statute gave
8 the Department broad authority over a very broad range of
9 consumer products, a small handful were excluded:
10 Pharmaceuticals, food packaging materials, pesticides,
11 because those items are covered under existing regulatory
12 regimes in a somewhat holistic manner.

13 Other than that, all the consumer products are
14 eligible to come in. The Department needs to go through a
15 prioritization process, because as the Chairwoman
16 mentioned, we're in the embryonic stages of getting
17 started and we need to start in a slow and manageable way
18 and really be forward looking to be able to capture new
19 products and new chemicals that also come in through the
20 stream.

21 So after we're done with prioritizing the
22 chemicals in products, we will then ask manufacturers of
23 those products to go through an alternative assessment to
24 identify safer substitutes to the chemicals that are
25 prioritized in their products.

1 BOARD MEMBER BERG: Will you relate this to the
2 Proposition 65 list so that we will have some coordination
3 on these chemicals that we should be looking at?

4 DEPARTMENT OF TOXIC SUBSTANCES CONTROL ACTING
5 DIRECTOR MOVASSAGHI: Absolutely. One of our first -- we
6 just released the revised version of the regs earlier this
7 week, and we're stating that an initial set of hazards we
8 looked at are carcinogens and reproductive disorder
9 hazards and we're drawing from the Prop. 65 list, in
10 addition to a few other lists.

11 But the idea is for us to build on the knowledge
12 we've had through Prop. 65 or the Toxic Air Contaminant
13 Program here at ARB to start also identifying solutions to
14 the problems we're grappling with.

15 BOARD MEMBER BERG: Thank you.

16 CHAIRPERSON NICHOLS: Thank you very much.
17 Thanks for taking the time to come and visit with us.

18 It's time to go to the public. If you want to
19 speak, please sign up now because I'm going to close the
20 list because it just gets too confusing if people keep
21 popping up during the course of the hearing.

22 Okay. We begin with Joseph Yost, followed by D.
23 Douglas Fratz and Gregory Johnson.

24 MR. YOST: Thank you very much, Chairman Nichols.
25 Good morning.

1 My name is Joe Yost. Chairman Nichols, members
2 of the Board, ARB staff, I represent the Consumer
3 Specialty Products Association, or CSPA.

4 I'd like to summarize the extensive written
5 comments CSPA has filed on this particular proposed rule.
6 By way of explanation, the CSPA is a voluntary nonprofit
7 trade association that represents approximately 240
8 companies that manufacture, formulate, distribute, and
9 sell a broad range of consumer and commercial products.

10 During the past 20 years, CSPA member companies
11 have spent many hundreds of millions of dollars to
12 reformulate their product to comply with ARB's strict
13 standards to improve air quality in California while
14 maintaining our industry's ability to supply effective
15 products and contribute positively to California's health,
16 safety, and quality of life.

17 CSPA member companies manufacture or market all
18 of the eleven product categories that are included in the
19 proposed 2010 amendments that you have before you. In
20 most cases, CSPA member companies manufacture the leading
21 product brands in the market.

22 This has been a very difficult rulemaking process
23 involving a large and diverse group of consumer products.
24 Consequently, when the process began, there are many
25 challenging issues to resolve. CSPA participated and is

1 an active member of the ARB's consumer products regulation
2 work group and worked cooperatively with ARB staff,
3 environmental groups, air districts, and other
4 stakeholders on this very challenging rulemaking process.

5 CSPA commends ARB staff's concerted efforts to
6 ensure that all interested parties have an opportunity to
7 participate in an open and transparent public effort to
8 develop this proposed regulation.

9 After considering all the relevant evidence
10 presented by stakeholders, ARB staff developed a
11 comprehensive proposed regulation that: One, produces
12 significant additional new VOC reductions; and two, adds
13 or clarifies important regulatory provisions, including,
14 among other things, a pragmatic provision to the most
15 restrictive limit provisions.

16 Although the proposed regulation presents very
17 serious and cost effective reformulation challenges, CSPA
18 member companies support most of the proposed new VOC
19 limits and other regulatory provisions. In addition, CSPA
20 member companies support the changes proposed by ARB staff
21 as part of the 15-day notice and comment period.

22 In conclusion, CSPA member companies commit to
23 initiate extensive research and development and
24 engineering efforts that will be necessary to reformulate
25 their products to meet these very aggressive new

1 regulatory standards. However, we request ARB staff work
2 with us to reevaluate these challenging new VOC limits in
3 the future if one or more of the VOC limits prove to be
4 technologically or commercially infeasible.

5 Be happy to answer any questions you may have.

6 CHAIRPERSON NICHOLS: Thank you very much.

7 Appreciate your involvement and your being here today.

8 And I'm sure you'll be here if any questions come up.

9 Mr. Fratz and then Mr. Johnson.

10 MR. FRATZ: Good morning. I'm D. Douglas Fratz,
11 Vice President of Scientific and Technical Affairs at the
12 Consumer Specialty Products Association.

13 My colleague Joe Yost noted we've worked long and
14 hard with your staff to seek these new VOC limits and
15 other provisions proposed for adoption today are
16 technologically feasible and maintain the many benefits
17 that our products provide.

18 Staff has estimated that this rule would require
19 \$50 million for our industry to reformulate. This may be
20 true if all of our R&D efforts are successful. While this
21 might not seem like much in these days of billion-dollar
22 fiscal problems, it is important to note that these costs
23 are not spread evenly across our industry. Most of the
24 nearly 1500 products that we will need to reformulate over
25 the next few years are manufactured by small companies

1 with limited resources for research and development. And
2 we cannot be certain that they will find those resources
3 or that they will be successful in their R&D efforts if
4 they find them.

5 The first problem that we have -- there are two
6 problems that we have remaining that we need to address.
7 The first relates to spray floor cleaners that are used
8 exclusively with specialty design light weight mops.
9 These products that were developed over the last decade
10 have proven to be of great benefit to older household
11 consumers and others that have limited physical abilities
12 to handle the traditional mop and bucket techniques.

13 More than a year of research has yet to find a
14 technology that will allow these products to maintain
15 their effective and efficient cleaning systems and not
16 create slipperiness on the floor surfaces. We continue to
17 believe the special purpose floor cleaners should not be
18 treated as general purpose cleaners.

19 The second problem we have relates to heavy-duty
20 hand cleaners that are used to remove the kind of tough
21 soils where no water is available. Adhesives, asphalt,
22 pre-soak PCBs, tar, tree sap, and soot are very difficult
23 for soils. And they can cause dermatological problems if
24 they're not removed quickly where the water is available
25 in the field.

1 Most effective current products use bio based
2 citrus extracts, which is a sustainable solvent but which
3 is a VOC. Moving to sustainable bio based solvents is one
4 of our goals.

5 Both these products are small, but they are
6 important to consumers of California. Next year, we're
7 going to be back again for another regulation. And we
8 hope to work again next year and seek to finish our SIP
9 commitments. We do, however, find that we are -- what
10 we've been doing for the last 20 years is probably not
11 sustainable.

12 CHAIRPERSON NICHOLS: Sorry, sir. Your time is
13 up. You have gone over your time limit.

14 MR. ALBERT: Okay. Thank you very much.

15 CHAIRPERSON NICHOLS: Appreciate that.

16 Greg Johnson and followed by Eileen Moyer and
17 Barry Wallerstein.

18 MR. JOHNSON: Chairman Nichols and members of the
19 Board, thanks for letting me come and speak today.

20 My name is Greg Johnson and I'm with the Sherwin
21 Williams Company. We make products in most of the
22 categories that are being regulated today.

23 I'd like to first commend the ARB on the process,
24 the regulatory process. The regulatory development
25 process is as good as it is in the country. And the staff

1 is as professional and knowledgeable about consumer
2 products as any we encounter.

3 This was, as you heard, a challenging regulation,
4 especially in some of the categories like the lubricants
5 which appeared to be simple from the start. But as we
6 looked into them, there were literally hundreds of unique
7 and special products that will have to be reformulated.
8 It took a lot of effort on the staff's part and the
9 industry's part to work until just now to sort out some of
10 the issues in that category and go forward with something
11 we think will work.

12 One thing that's become apparent to those of us
13 who have been involved in this in this ongoing UFC
14 reduction in the last few decades is we're moving not only
15 into an area of diminishing returns, but an area where
16 sometimes the categories have insignificant returns. Some
17 of the categories that we looked at in the lubricants area
18 had potential reductions of 20 pounds. That's the
19 equivalent of three gallons of gasoline spread across the
20 state of California. That's not a lot.

21 As you heard Fratz say, we think the cost of the
22 regulation to the industry will be in the millions of
23 dollars, which differs greatly from the estimates that
24 staff has prepared.

25 But what I'd like to -- and I'm not here to

1 complain about that. But what I would like to suggest is
2 going forward we look to alternatives next year. We're
3 going to be back again doing another regulation and
4 hopefully a successful one.

5 But there are opportunities for the consumer
6 products industry to work with ARB to achieve greater and
7 more significant reductions in VOCs and possibly in
8 greenhouse gases by using alternative methods than this
9 command control and reduce that we've been using. We have
10 a Committee that's been established, and we'd like to work
11 possibly with the Board or staff on some of those ideas
12 going forward.

13 And to sort of use the term that one of my
14 teenage nieces use, if we don't do something like this in
15 a couple years, we'll be back here talking about
16 reductions of ten or 15 pounds in the product category,
17 and use her term, really? Is this really where we want to
18 go with this? Thank you.

19 CHAIRPERSON NICHOLS: Okay. Eileen Moyer, Barry
20 Wallerstein and Harry Zechman.

21 MS. MOYER: Madam Chairman, I'm going to cede my
22 time rather than duplicate comments that have been said.

23 CHAIRPERSON NICHOLS: Thank you.

24 Then Dr. Wallerstein.

25 DR. WALLERSTEIN: Good morning, Chairman Nichols,

1 members of the Board. I'm Barry Wallerstein, Executive
2 Officer of the South Coast AQMD.

3 It's a pleasure to join you this morning in
4 support of the staff proposal. We have taken an
5 independent look at the analysis and concluded as your
6 staff did that there is available feasible technology. It
7 is cost effective. And we believe that your staff's
8 proposal complies with all provisions of State law in this
9 regard.

10 We're also pleased to note that the staff -- your
11 staff is working hard on issues associated with consumer
12 products, such as toxicity of materials, any other
13 environmental effects, and also on the topic of volatility
14 because some low volatility in materials are significantly
15 due to ozone formation. And we look forward to working
16 with your staff on those issues. And we recommend
17 approval of the staff proposal.

18 CHAIRPERSON NICHOLS: Thank you.

19 Harry Zechman and then Bob Sweger and Doug
20 Raymond.

21 MR. ZECHMAN: Madam Chair, members of the Board,
22 my name is Harry Zechman. I'm Chief Operating Officer for
23 Stoner Incorporated. We're a third generation
24 family-owned business and recipient of the Malcolm
25 Baldrige national quality award. The Center produces many

1 products for glass cleaning, automotive appearance, and
2 industrial applications.

3 I appreciate the opportunity to comment on this
4 regulation. The proposed amendments will impact one of
5 our flagship products, the Invisible Glass glass cleaner.
6 My colleague, Bob Sweger, will comment on the technical
7 challenges of the amendments.

8 I'm here to support the change to the glass
9 cleaner category as proposed. This change will be
10 challenging, as Bob will explain.

11 Stoner, Incorporated's team has worked with CARB
12 staff in an effort to propose a VOC limit which gains this
13 state emissions reductions while preserving product
14 efficacy. Invisible Glass is the number one selling glass
15 cleaner in specialty automotive for the past six years.
16 This product provides the customer the ability to clean
17 their windshields and prevents streaks, haze, and clouding
18 to ensure a safe environment in their vehicle.

19 Again, we support the proposed rule and
20 appreciate the staff's effort on this category. Thank
21 you.

22 CHAIRPERSON NICHOLS: Thank you.

23 Mr. Sweger.

24 MR. SWEGER: Good morning, Madam Chairwoman,
25 members of the Board. My name is Bob Sweger. I'm the

1 lead research and development scientist on the Invisible
2 Glass product at Stoner, Incorporated.

3 The staff proposal will reduce the VOC in our
4 product by 25 percent. This is a significant reduction
5 for a product that has been regulated and reduced three
6 times before: Initially, in 1993, when it was at eight
7 percent, 1996 when it was reduced to six percent, and then
8 in 2004 when it went to four percent.

9 Our product, Invisible Glass, does not leave a
10 haze or streaks which can certainly interfere with the
11 safety of a driver in direct sunlight or at night with
12 oncoming traffic.

13 To produce a product such as ours, it takes a
14 careful balance of the right ingredients. Currently,
15 technology of certain compounds such as surfactins, does
16 not lend itself readily to the extensive use in glass
17 cleaners because a film is left behind that can cause
18 streaks or hazing.

19 Over the past two years, we've worked with Carla
20 Takemoto and her staff investigating numerous compounds to
21 meet the proposed reductions. The proposal by staff today
22 reflects the state of technology for years to come.

23 The proposal is technologically challenging and
24 we will need to continue our work to develop a formula to
25 meet the stringent limit. And it will not be easy.

1 In conclusion, I concur with Harry. We
2 understand the need to reduce VOC emissions. We support
3 the proposed VOC limit for glass cleaner and we appreciate
4 the opportunity to comment on this proposal.

5 Thank you and the CARB staff for their
6 willingness to work on this issue.

7 CHAIRPERSON NICHOLS: Thank you for being here.

8 Doug Raymond and then Morgan Wyenn and Barbara
9 Losey.

10 MR. RAYMOND: Good morning, Madam Chairwoman and
11 members of the Board.

12 I'm actually here if you look at the cards
13 actually representing four different companies.

14 CHAIRPERSON NICHOLS: I see that.

15 MR. RAYMOND: I'm going to try to make my
16 comments brief.

17 First, I'm here for the National Aerosol
18 Association. We're here to support the regulation as is,
19 and we actually look forward to working with staff on the
20 specialty lubricants issue. That is something of very
21 much importance to us.

22 The second company is Radio Specialty Company
23 also for the lubricant categories. We'd like to work with
24 you on that. And also support the changes that are being
25 made today for some of the oversights and some of the

1 provisions.

2 The third one is Eco Lab. They make products for
3 the food service industry. They're a global leader in
4 that. We're here to support the oven cleaner category
5 changes. Those will help us make some products that are
6 more safe and effective.

7 Lastly, CRC Industries, we're here to support the
8 regulation for the specialty lubricants. In that area, we
9 support what Greg Johnson was saying. Specialty lubricant
10 category was extremely difficult to deal with, and we
11 still have work to do on those.

12 I want to reiterate, too, that staff was very
13 willing to meet with us at all levels, all the way up to
14 the executive branch. And we look forward to finishing up
15 this regulation and we look forward to working with you in
16 the future.

17 Thank you very much.

18 CHAIRPERSON NICHOLS: Thank you. And
19 congratulations on being able to represent four positions
20 in less than three minutes. That's great.

21 Morgan Wyenn.

22 MS. WYENN: Hi. Good morning, Chairman Nichols,
23 members of the Board and staff.

24 My name is Morgan Wyenn. I'm an attorney with
25 the Natural Resources Defense Council, the NRDC. I'm here

1 to support the proposed amendments to the 2010 consumer
2 products regulation. We especially applaud CARB's
3 proactive approach in prohibiting several toxic air
4 contaminants and compounds with high global warming
5 potential to make sure they are not used to meet the new
6 VOC limits. We believe this proposal is a great step in
7 the right direction to protect the health of workers and
8 consumers to meet the 2014 standards and to make progress
9 on an important source of pollution.

10 Thank you for your commitment and leadership in
11 reducing VOC and toxics. We look forward to the benefits
12 your actions will bring to California in the future.
13 Thank you.

14 CHAIRPERSON NICHOLS: Thank you.

15 Barbara Losey and then Luis Cabrales and Pedro
16 Guzman.

17 MS. LOSEY: Thank you, Chairman Nichols and to
18 the Board for this opportunity to speak to you today.

19 I'm Barbara Losey, Deputy Director of the
20 organization called the Alkylphenols and Toxics Research
21 Council. It's consortium of manufacturers of those
22 compounds. It's conducted research for the past 25 years
23 on the environmental data of human health safety of the
24 compounds. We've been conducting research and monitoring
25 the public's literature on these compounds for over 25

1 years, and we now have over 4,000 studies in our database
2 regarding these compounds.

3 I wish to offer the following comments to the
4 Board about why we do not warrant --

5 CHAIRPERSON NICHOLS: Could you speak up a
6 little? Maybe get closer. You have a low voice. It's
7 hard to hear.

8 MS. LOSEY: Is this better?

9 CHAIRPERSON NICHOLS: Much better.

10 MS. LOSEY: So we offer the comments for why they
11 should not be regulated under the current regulation.

12 The fact that APEs are toxic to product life is
13 not surprising, because all surfactins are toxic to
14 aquatic life. What's different about APEs from other
15 surfactants is that probably we know more about them than
16 we do about other surfactins in alternatives that might be
17 used in their stead. We know how much is in the
18 environment. We know how much -- what levels are
19 protective of the environment. EPA has water quality
20 criteria for alkylphenols and is known the major
21 challenge. We know that there are predicted no effect
22 concentrations governmentally derived and otherwise for
23 what's safe in sediment. We know the levels of
24 alkylphenols in California waters and sediments are very,
25 very low and that with very few exceptions do not exceed

1 the water quality criteria or values.

2 The Board has expressed concern about the
3 estrogenic activity of alkylphenols, and alkylphenols do
4 display estrogenic activity that is 10,000 to a million
5 times lower than human type hormones that are also present
6 in the environment.

7 EPA developed chronic water quality criteria for
8 alkylphenols that consider these types of effects, things
9 like developmental and reproductive effects in aquatic
10 organisms.

11 In studies conducted and sited by the Southern
12 California Coastal Water Research Project have in the
13 conclusions of the authors of those studies not found any
14 definitive links between the structure and composition in
15 fish to any compounds, including the APEs in surface
16 water.

17 So it seems that the basis in the staff report
18 for this proposal is weak. We don't think that APEs are
19 likely to go to in green and reformulation, but to
20 restrict them would unnecessarily restrict formulation
21 options for people that want to meet the VOC regulations.
22 California has ongoing programs --

23 CHAIRPERSON NICHOLS: Thank you. I think we get
24 the gist of the comment. And you have filed written
25 comments.

1 MR. LOSEY: We filed written comments and I have
2 a copy of my statement.

3 CHAIRPERSON NICHOLS: Okay. I'm going to maybe
4 extend the time on this a little. Just like to hear from
5 the staff response to these comments.

6 TECHNICAL EVALUATION SECTION MANAGER TAKEMOTO:
7 This is Carla Takemoto.

8 As you probably have figured out by now, this is
9 a water quality issue. These are chemicals that when they
10 are washed down the drain with various cleaning products
11 get into our waterways.

12 And because it is a water quality issue, of
13 course, we consulted with our sister agency at the Water
14 Resources Control Board. And their review of available
15 literature from various water quality entities in the
16 state found there were levels of concern of these
17 surfactins in California's waterways and that they felt
18 that any additional use of these compounds would be
19 detrimental. So I think that the Water Board would
20 disagree that use of these compounds is not an issue.

21 CHAIRPERSON NICHOLS: Okay. Do they file any
22 formal comments, or was this an informal consultation?

23 TECHNICAL EVALUATION SECTION MANAGER TAKEMOTO:
24 Pardon me?

25 CHAIRPERSON NICHOLS: Was this an informal

1 consultation you had with the Water Board?

2 TECHNICAL EVALUATION SECTION MANAGER TAKEMOTO:

3 No. It is part of the record for the rulemaking. We
4 consulted with them. The information they got from
5 various other water quality agencies in the state is part
6 of the record, as is their record to us making the
7 recommendation.

8 CHAIRPERSON NICHOLS: Thank you. Okay. Thanks
9 very much.

10 Mr. Cabrales and then Mr. Guzman.

11 MR. CABRALES: Good morning, Madam Chairman.

12 Before I start my testimony, I'd like to make
13 note Mr. Guzman is a monolingual Spanish speaker, and I
14 will translate for him, unless there is staff available to
15 translate. Thank you.

16 Again, good morning, thank you very much for this
17 opportunity to address this Board, staff, and participants
18 today.

19 I'm Luis Cabrales. I'm Deputy Director of
20 Campaigns Coalition for Clean Air. We have submitted
21 testimony supported by more than 30 local, state, and
22 national organizations representing consumers, workers,
23 and interest groups from throughout the country.

24 These regulations are very important. That's why
25 we have the support of these groups. I'd like to remind

1 you that just recently the U.S. EPA has notified us that
2 they are interested in making one of your recent
3 regulations a national regulation. So that's how
4 important these regulations are for people across the
5 nation.

6 I would like to speak in support of staff's
7 proposal and also commend their work and their efforts to
8 involve all of the stakeholders in this process. I'm
9 very -- I'd like to express our disapproval or our
10 opposition to any attempt to change these regulation as
11 drafted. Especially, I want to mention the SCPA's request
12 to create any special purpose floor cleaner.

13 Further, I believe that their comments and
14 concerns that reducing the VOCs from their products all
15 the way down to .5 percent will make them I quote,
16 "compromising walkway safety" and without providing any
17 valid information to back their arguments. I would like
18 to, in fact, liken those comments to scare tactics and
19 prevent you from approving a regulation that will not only
20 comply with your 2007 State Implementation Plan and Clean
21 Air Act, but will also protect workers, consumers, and
22 people across the state, not only the state, but most
23 likely the nation.

24 Thank you very much for your interest in this
25 issue.

1 CHAIRPERSON NICHOLS: Thank you. I know you've
2 been involved in this from the beginning.

3 Mr. Guzman.

4 MR. GUZMAN: Good morning. My name is Pedro
5 Guzman, and I have eleven years of experience working as a
6 car wash worker in the Los Angeles area. People take
7 their vehicles to have clean car washes are not aware that
8 us workers have to handle strong chemicals, like
9 degreasers, cleaners to remove stains, glass cleaners,
10 waxes, and other chemicals to polish their vehicle as well
11 as acid to clean the rain.

12 All this time I worked as a car wash worker, I've
13 hardly ever used or had access to the adequate equipment
14 to protect myself from the chemicals such as gloves, face
15 masks, glasses, or even shoes.

16 We never received any training on how to use
17 those chemicals and about the risks. After using these
18 chemicals for six days a week, I suffered of skin rashes,
19 skin irritation, red eyes, irritation of the eyes, and
20 respiratory. And now I suffer of blurry sight and
21 respiratory problems.

22 Recently, us workers at the hand car wash won
23 several lawsuits against the owners and manager of this
24 company for abuses to worker safety laws. And the company
25 was also fined for environmental violations and for

1 getting rid of polluted water without being treated
2 previously.

3 CHAIRPERSON NICHOLS: Mr. Cabrales, I don't -- as
4 you know, they are over the time. Of course we need extra
5 time for translation. But could you just bring it to an
6 end, please?

7 MR. GUZMAN: That's why I'm asking this agency to
8 help workers like myself at car washes and other workers,
9 especially women that work at car washes, because it's
10 practically impossible to protect the thousands of workers
11 from the abuses of their employers. But by reducing the
12 toxic chemicals, we will at least face less risks. And we
13 will have a cleaner environment.

14 CHAIRPERSON NICHOLS: Thank you very much. Thank
15 you.

16 I believe that is the list of witnesses. Staff
17 have any final comments before we approve this one?

18 ASSISTANT CHIEF COREY: No. No comments.

19 CHAIRPERSON NICHOLS: Okay. I believe we do need
20 to also put out any ex parte communications on this
21 particular rule.

22 Are there any ex partes?

23 Yes, Dr. Balmes.

24 BOARD MEMBER BALMES: I was contacted by Marla
25 Cone of Environmental Health News regarding the specific

1 issue we have relating to glycol ethers. It was an e-mail
2 interaction. And then I questioned staff about that
3 specific issue and had a nice briefing from them on the
4 following day.

5 CHAIRPERSON NICHOLS: Okay. Is that it?

6 Okay. The record is now officially closed on
7 this item. It will be reopened when the 15-day notice of
8 public availability is issued. So written or oral
9 comments received after this date but before the 15 day
10 notice comes out will not be accepted as part of the
11 official record. When the record is reopened for a 15 day
12 comment period, the public may submit written comments on
13 the proposed changes which will be considered and
14 responded to in the Final Statement of Reasons for the
15 proposed regulations.

16 I think we now have before us Resolution Number
17 10-40. Do I have a motion and a second for this one?

18 BOARD MEMBER D'ADAMO: So moved.

19 BOARD MEMBER YEAGER: Second.

20 CHAIRPERSON NICHOLS: Any further discussion on
21 this item? If not, all in favor will please say aye.

22 (Ayes)

23 CHAIRPERSON NICHOLS: Any opposed?

24 Very good. Thank you very much, Board members.

25 The next two items that we have today are large

1 updates for the Board, one on the low carbon fuel standard
2 and the other on the diesel emissions inventory related
3 issues. And I think we should take our break before we
4 get into those items, just to give fair warning to the
5 audience here or those who are watching and waiting and
6 trying to decide when to come over. I think it would be
7 best to come at 1:00.

8 We do have an additional question about order of
9 the two items because Professor Sperling has to leave to
10 go teach and was hoping we could flip the order and do the
11 emissions inventory item first and the LCFS item second.

12 Is this acceptable to everybody? Is that a
13 problem?

14 EXECUTIVE OFFICER GOLDSTENE: It's okay from a
15 staff perspective. We'll be ready.

16 CHAIRPERSON NICHOLS: All right. Then let's do
17 it that way. Thank you very much.

18 (Thereupon a lunch recess was taken
19 at 12:03 p.m.)

20

21

22

23

24

25

1 what an emissions inventory is, how it is used, and what
2 the effect of changes may be on the rules that we'll be
3 considering next month.

4 Since today's item on the emissions inventory is
5 only informational and it's only about the inventory --
6 it's not about any other aspect of the rules -- we are
7 going to ask those who are commenting to limit their
8 remarks -- limit their comments only to issues about the
9 actual inventory. The time for commenting on the cost
10 effectiveness of the rule, the reasonableness of the rule,
11 the health effects of diesel, or the relationship between
12 diesel and global warming, all of those things is not at
13 this meeting. And given the time, I really would
14 appreciate if people would try to focus their remarks.

15 And I would also say that if you do comment
16 today, we will take your comments and we will fold them
17 into the official rulemaking record. So in other words,
18 if you choose to make your statement today, which we're
19 not encouraging, but if you do, we will add it to the
20 record and you don't have to come back and say the same
21 thing next month.

22 Today's staff presentation and the meeting
23 transcripts will also be included as part of the official
24 record for the proposed rule amendments that we're taking
25 up in December. I hope there's clear. If not, we'll have

1 to go over it again.

2 But at this point, I think it's time for the
3 staff to begin their presentation.

4 EXECUTIVE OFFICER GOLDSTONE: Thank you, Chairman
5 Nichols.

6 Staff has provided you with a number of briefings
7 on the on- and off-road diesel rule since you first
8 adopted the off-road rule in 2007 and the truck and bus
9 rule in 2008.

10 In July 2009, staff proposed and you adopted
11 changes to the off-road rule to implement the provisions
12 of AB 82X. That legislation, passed in response to the
13 recession, directed ARB to make changes to lessen their
14 requirements for large fleets in 2010 through 2012.

15 Following that, in December 2009, was a staff
16 presentation on the impacts of the recession on trucking
17 activity and emissions.

18 In April of 2010, staff provided the Board
19 another update on the impact of the economy on both truck
20 and off-road emissions.

21 Through the course of this year, staff has also
22 been incorporating new data and methods into its emission
23 estimates.

24 With that, I'll ask Dr. Todd Sax, Chief of the
25 Mobile Source Analysis Branch, to continue the

1 presentation.

2 Todd.

3 (Thereupon an overhead presentation was
4 presented as follows.)

5 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Thank
6 you.

7 Good afternoon, Chairman Nichols and members of
8 the Board.

9 Today, I'm going to discuss the substantial
10 improvements we have made to emissions inventory methods
11 for off-road equipment and the impacts of the recession on
12 both trucks and off-road equipment.

13 --o0o--

14 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: My
15 presentation has four sections.

16 In the first, I will provide a general overview
17 of emissions inventory development for mobile sources, and
18 in particular, what is needed to support rulemaking for
19 in-use fleet rules, which is different from more
20 traditional rulemaking for new engine emissions standards.

21 Next, I'll talk in greater detail about
22 improvements to the truck and bus emissions inventory and
23 then the off-road emissions inventory.

24 I will conclude with staff's inventory findings
25 as they pertain to providing businesses economic relief in

1 light of the recession.

2 --o0o--

3 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: An
4 emissions inventory is an estimate of emissions both now
5 and in the future. There is no single measurement or a
6 single data source that can be used to quantify an
7 inventory. Instead, staff combines test measurements with
8 available data that describes the population of equipment
9 and how those equipment operate. All of these together
10 are used to estimate emissions.

11 Methods and data sources improve over time, and
12 staff periodically updates inventories to reflect this
13 information. An inventory is not static; it evolves over
14 time.

15 When an inventory is developed to support an air
16 quality plan or rule, it is based on the best information
17 available at that time. The Board periodically approves
18 the entire emissions inventory as part of its approval of
19 federal air quality plans.

20 --o0o--

21 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Once
22 current emissions are estimated, forecasts are developed
23 based on economic growth trends and the anticipated
24 penetration of new technologies into the future.

25 --o0o--

1 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Many
2 different types of data are used to develop emissions
3 inventories.

4 Staff periodically conducts emissions testing
5 programs that provide the fundamental basis for relating
6 how much vehicles operate to how much vehicles emit.

7 Agency programs can also be a valuable source of
8 information. The best known example would be vehicle
9 registration program data that are available through the
10 Department of Motor Vehicles for on-road vehicles, but
11 there are many others. Industry surveys and market
12 reports are used to estimate how much vehicles operate.
13 We will conduct surveys or implement field studies to fill
14 in data gaps we find in other data sources.

15 Finally, economic forecasts are used to estimate
16 the growth in activity associated with the use of various
17 types of vehicles.

18 --o0o--

19 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
20 in-use rules are different, because unlike new engine
21 standards that focus on manufacturers, in-use rules focus
22 on fleets owned and operated by individual businesses.
23 Developing in-use rules requires understanding how
24 individual fleets operate and manage their vehicles. In
25 California, there are many different ways in which fleets

1 operate, and these differences are important to
2 understand.

3 --o0o--

4 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In this
5 section, I'm going to focus on the truck and bus
6 inventory. We'll discuss the original inventory used for
7 the 2008 rulemaking, our assessment of the impact of the
8 repetitive session both now and in the future, and several
9 refinements made to the inventory to reflect new
10 information.

11 --o0o--

12 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
13 inventory developed for the 2008 rulemaking represented
14 the culmination of several years of work to better
15 characterize the diversity of trucking operations to
16 support rule development. We found unique differences
17 between various trucking sectors operating in California,
18 including interstate trucks, drayage trucks, and
19 agricultural trucks.

20 Recent inventory updates focused on reflecting
21 the recession. We assessed the impact on the recession on
22 different trucking sectors, including construction. We
23 also developed several refinements to the inventory to
24 reflect new information.

25 --o0o--

1 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
2 inventory development process has been extensive. This
3 slide highlights the many workshops and meetings we have
4 had throughout the development of the inventory. Our
5 inventories, including the 2008 rulemaking and the new
6 inventory updates, are available through our website.

7 --oOo--

8 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
9 most significant change to the truck and bus inventory
10 since 2008 has been assessing the impact of the recession.
11 Last year at this time, we reported to you on our
12 assessment of the impact of the recession on trucking
13 operations in California. We evaluated a number of
14 different data sources to reflect the impact of the
15 recession, including taxable on-road diesel fuel use,
16 various economic indicators of construction activity, and
17 container through-put at California's ports.

18 Over the course of this year, we updated that
19 work with more recent information. Overall, we estimate
20 that emissions have been reduced by 25 percent in 2009
21 from what we previously estimated.

22 Of course, not all trucking sectors have been
23 impacted equally by the recession. For example, activity
24 in the construction sector has dropped by 50 percent.

25 To check that our estimates correctly reflect the

1 recession, we compared our emission estimates with on-road
2 taxable fuel sales data to match within a few percent.

3 --o0o--

4 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: So the
5 recession has had a major impact in reducing emissions
6 from trucks and buses operating in California today, but a
7 critical component of the emissions inventory is the
8 forecast of emissions into the future. To evaluate
9 emissions in the future, we reviewed different economic
10 and fuel forecasts at a state and national level. These
11 reports assess economic recovery through a variety of
12 economic indicators, including sector level employment and
13 gross domestic product.

14 As we have looked at data from these sources, we
15 have focused especially on what they suggest about the
16 possible state of the economy on 2014. This is the key
17 compliance year for the PM2.5 air quality standard and so
18 is critical to the regulatory design in terms of needed
19 emission reductions.

20 --o0o--

21 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Last
22 December, we presented a range of forecast scenarios: One
23 faster, one slower, based on the data we have seen.

24 The faster growth scenario assumed a return to
25 non-recession forecasted levels in 2017 based on

1 Congressional budget office gross domestic product
2 forecasts. While it's the faster, more optimistic
3 scenario, it is still slow. It is based on an eight year
4 recovery period, the same length of time it took the
5 United States to recover from the Great Depression. The
6 slower recovery scenario assumed historically average
7 growth from the trough of the recession into the
8 foreseeable future. In this scenario, the economy does
9 not truly recover from the recession at all. This
10 scenario is pessimistic and intended to represent the
11 slowest possible growth that could reasonably occur.

12 In April, we presented a forecast that represents
13 the average of the faster and slower recovery scenarios.
14 That is the same forecast we are using today. It is
15 consistent with the transportation and warehouse
16 employment forecasts developed by the University of
17 California at Los Angeles and the University of the
18 Pacific.

19 Let me show you what it looks like graphically.

20 --o0o--

21 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: This
22 chart shows our truck and bus activity forecasts. This
23 line represents our forecast from the 2010 to 2014 of
24 truck activity relative to the estimated growth in 2006 if
25 there had been no recession.

1 --o0o--

2 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Added
3 in here is the June 2010 UCLA forecast, shown here as the
4 purple line. It accounts for the recession and projects a
5 much lower activity into the immediate future.

6 --o0o--

7 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: And now
8 the UOP forecast, shown here as the blue line, is very
9 similar to the UCLA forecast, projecting moderate growth
10 in transportation and warehousing employment into the
11 future.

12 --o0o--

13 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: And
14 here the black line shows staff's forecast based on the
15 average of the fast and slow recovery scenarios. It
16 compares very well to the UCLA and the UOP employment
17 forecast.

18 --o0o--

19 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:
20 Finally, this last line is the inventory forecast for just
21 construction trucks, reflecting the much deeper impact of
22 the recession in terms of current activity and the much
23 longer recovery compared to trucking as a whole.

24 --o0o--

25 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In

1 addition to assessing the impact of the recession, we have
2 made several other improvements to the inventory.

3 We conducted a major field study in 2007 and
4 2008, collecting data in more than 50 locations around the
5 state. We used this information to improve our estimates
6 about how trucks of various categories travel around the
7 state. This allowed us to refine our regional emissions
8 estimates.

9 We collected new data from the State Board of
10 Equalization reflecting fuel tax information from
11 non-California registered trucks traveling in California
12 to revise our estimate of miles traveled by these
13 interstate trucks. This change reduced emissions by eight
14 percent.

15 Finally, we updated emission rate estimates for
16 older vehicles, based on revised estimates of the total
17 amount of miles driven by trucks on average over their
18 lifetime. This change, which we will discuss in greater
19 detail shortly, reduced the emissions inventory further by
20 about five percent.

21 --o0o--

22 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: This
23 slide summarizes the impact of the recession and
24 methodology changes on the particulate matter emissions
25 inventory.

1 As you can see, our revised emissions estimates
2 are lower now than we estimated in 2008, mostly because of
3 the recession. In this figure, the dark gray bar
4 represents the 2008 rulemaking inventory, the light gray
5 bar represents that inventory adjusted for the recession,
6 and the blue bar represents current estimates.

7 The impact of the recession is greatest in 2010.
8 And while the impact diminishes as the economy recovers,
9 it is still significant in 2023. As the chart shows, the
10 impact of the refinements is smaller. The same trends are
11 seen for NOx as well.

12 --o0o--

13 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Since
14 we have posted the inventory and documentation for the
15 December Board hearing, we have received several comments.

16 One comment was to use the slow recovery scenario
17 rather than the average recovery scenario. But our
18 forecast compares well to the transportation and
19 warehousing employment forecasts developed by UCLA and
20 UOP.

21 Further, the slow recovery was designed to be a
22 worst-case forecast where the economy would not recover
23 from the recession in the foreseeable future. We do not
24 believe using a worst-case scenario is appropriate. By
25 planning for a reasonable, modest recovery, we can provide

1 economic relief while also ensuring that public health
2 will be protected and legal obligations under the Clean
3 Air Act will be met.

4 Other comments called for lowering the assumption
5 for lifetime mileage and annual mileage. We have analyzed
6 additional data since receiving these comments and
7 concluded they do not support the suggested changes.

8 In the next several slides, we will walk you
9 through these mileage issues, starting with a little
10 background on what lifetime mileage is.

11 --o0o--

12 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:

13 Lifetime mileage refers to the cumulative miles traveled
14 by a category of similar trucks over a lifetime. The
15 average value across the truck category is used in the
16 calculation.

17 Lifetime mileage estimates are important because
18 they affect our calculation of emission rates. As
19 vehicles are driven during their lifetime, engine
20 components age and malfunction. Emission rates increase
21 as a result. The comment to reduce average lifetime
22 mileage assumptions is, in effect, a comment to reduce the
23 emission rates of older vehicles.

24 Staff has made this adjustment already. In the
25 original inventory for the 2008 rulemaking, we assumed

1 trucks travel more than one million miles over their
2 lifetime. Staff lowered that to 800,000 miles on average
3 for the heaviest trucks in the updated inventory. That
4 change reduces emissions by about five percent.

5 --o0o--

6 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:

7 Estimating an appropriate lifetime mileage is actually not
8 a simple process, and several methods can be applied.
9 During the inventory update process, staff looked at a
10 variety of data sources, including engine standard
11 requirements, information about truck survival rates, and
12 odometer data from several sources. Based on this
13 information, we chose 800,000 as our lifetime mileage for
14 heavy-heavy-duty diesel trucks.

15 Since receiving the comment, we collected
16 additional information. We applied a method used by U.S.
17 EPA to estimate lifetime mileage and calculated an average
18 lifetime mileage of around one million miles. Using a
19 survey-based approach, we calculate an average of 650,000
20 miles. As a result, we continue to believe 800,000 is a
21 reasonable assumption.

22 As I said, the lifetime mileage assumptions are
23 really about the emission rates of older vehicles. Let me
24 show you what these mileage assumptions mean.

25 --o0o--

1 assumption but above the suggested 600,000 mile estimate.

2 --o0o--

3 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: So our
4 fleet average emission rate generated by the 800,000
5 lifetime mileage estimate falls between the two methods.
6 And staff does not believe any further change, beyond that
7 already made, is supported by the data.

8 --o0o--

9 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
10 last comment pertains to estimates about how many miles
11 older trucks drive per year. This issue matters because
12 emissions are the product of annual mileage and emission
13 rates. Older vehicles, having been manufactured to less
14 stringent emissions standards, have higher emission rates.
15 If those vehicles are assumed to drive less, they will
16 generate fewer emissions.

17 We developed our annual travel miles estimates
18 for the 2008 rulemaking based on the U.C. Census vehicle
19 inventory and use survey, and additional data provided by
20 trucking fleets during the regulatory process.

21 --o0o--

22 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: To
23 evaluate the comment, staff assembled a larger database
24 than we had with just the US Census data. We added to the
25 Census records information from ARB surveys and data from

1 the Proposition 1B and Moyer funding programs. This
2 doubled the amount of data we could analyze to more than
3 11,000 mileage accrual records for California registered
4 non-drillage trucks. These data are now available on our
5 website. Our analysis of this expanded data set supports
6 the existing mileage accrual estimates.

7 --o0o--

8 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In the
9 next portion of this presentation, we'll be discussing the
10 original inventory used to support development of the
11 in-use off-road regulation in 2007 and the 2010 updates
12 including the public process that has taken place during
13 the past year.

14 We'll be presenting all the new and extensive
15 information that has become available since 2007,
16 including information on the impacts of the recession on
17 the industry.

18 --o0o--

19 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: When we
20 developed the inventory for the 2007 rulemaking, we used
21 standard calculation techniques and updated key inventory
22 inputs using industry market reports supplemented with ARB
23 surveys. The use of industry market reports was important
24 because at the time there was no California or national
25 data set for off-road equipment.

1 By the middle of 2009, the severe impact of the
2 economic recession on the construction industry had become
3 clear, and we began the process of updating the inventory
4 to reflect its impacts.

5 In late 2009, Professor Harley at U.C. Berkeley
6 published a fuel-based analysis suggesting the off-road
7 inventory was overestimated. As a result, staff expanded
8 the work already underway to look at all of our basic
9 assumptions and methodologies. This was possible because
10 by 2010, a wealth of new California-specific information
11 was available as a result of the existing reporting
12 required by the rule and the expanded reporting put in
13 place to support granting economic relief.

14 With these new data, we have been able to assess
15 both the impacts of the recession and address the concerns
16 raised by Professor Harley and industry regarding the
17 accuracy of emissions estimates and comparison to
18 fuel-based estimates.

19 --oOo--

20 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Like
21 on-road, the off-road inventory development process has
22 been extensive. This slide highlights the many workshops
23 and meetings we have had throughout the development of the
24 inventory. All of our inventories, including the
25 rulemaking and the new inventory updates, are available

1 through our website.

2 --o0o--

3 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In
4 terms of new information, first is the California-specific
5 equipment population information and information about how
6 that equipment is used collected through rule reporting.
7 Owners of regulated equipment were required to report
8 fleet information to ARB's on-line reporting system,
9 DOORS. Fleet owners reported the total number of vehicles
10 by type, horsepower, and model year.

11 Staff used the financed equipment sales data to
12 better understand how changes in the economy impact the
13 age of the fleet and new engine testing information to
14 better understand how hard equipment operates, what we
15 refer to as a load factor.

16 And lastly, economic indicators, such as current
17 and forecasted employment and human population data, have
18 provided a better assessment of how much emissions from
19 regulated equipment have dropped as a result of the
20 recession, how much they are forecasted to recover, and
21 where these emissions are likely to occur.

22 --o0o--

23 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: For
24 2010, staff made updates to these four main components of
25 the emissions inventory. Each of these components will be

1 discussed in more detail over the next ten slides.

2 --o0o--

3 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
4 2007 rulemaking inventory relied on national population
5 estimates that were scaled to California. The regulation
6 required that by the beginning of 2010 all owners of
7 regulated equipment had to report fleet information to
8 ARB's online reporting system, called DOORS. Fleet owners
9 reported the total number of vehicles by type, horsepower,
10 and model year.

11 The updated inventory is based directly on this
12 new reported data. The original inventory estimated
13 195,000 vehicles in 2009. The updated population is about
14 145,000 vehicles, reduced mostly as a result of the
15 recession.

16 --o0o--

17 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
18 2007 rulemaking inventory primarily relied upon an
19 industry market report to estimate how much different
20 types of equipment are used annually.

21 In 2009, the California Legislature approved
22 Assembly Bill 82X, which required ARB to amend the
23 off-road diesel regulation to give economic relief. As
24 part of these amendments, ARB gave credits to fleet owners
25 toward early requirements if they provided documentation

1 of reduced activity as a result of the recession. To
2 receive credit, fleet owners had to report
3 equipment-specific hours of operation for calendar years
4 2007 and 2009. Data were reported for about ten percent
5 of the vehicles reported to DOORS.

6 The 2007 reported activity was 50 percent lower
7 on average than our previous surveys and market reports.
8 2007 was down from the peak of 2005, but before the
9 recession. We believe 2007 represents an historically
10 average year. 2009 activity levels that reflect the
11 recession were lower than 2007 estimates.

12 The updated inventory relies on the new lower
13 hours of use data reported to DOORS by California fleets.

14 --o0o--

15 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Load
16 factors are a measure of how hard a given vehicle
17 operates, or in other words, what fraction of its rated
18 horsepower is used on average. Our previous estimates
19 were based on a national study. Data that became
20 available in 2009 and 2010 through ARB engine testing and
21 manufacturer-supplied engine computer downloads suggested
22 load factors should be reduced by 30 percent.

23 Over the past several years, we had been
24 reviewing load factors across a wide variety of equipment
25 in the goods movement sector. The ports of Los Angeles

1 and Long Beach had conducted two studies reviewing load
2 factors on cargo handling equipment and the results were
3 similar to what we saw in the new data representing
4 construction equipment.

5 As a result, the revised load factors were
6 reduced 30 percent.

7 When we account for all the updates based on
8 improved methodologies and new information, the revised
9 inventory is reduced by about 60 percent.

10 --o0o--

11 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: At the
12 time of the original rulemaking, staff projected continued
13 growth into the future. Instead, the construction sector
14 has experienced a reduction in activity of about
15 50 percent from peak levels in 2005. That reduction has
16 led to a major decrease in emissions.

17 As with the truck and bus inventory, staff is
18 using the average of faster and slower recovery scenario
19 to forecast construction emissions. This compares well
20 with near-term forecasts for construction employment
21 published by UCLA and the University of the Pacific.

22 Given the depth of the recession in the
23 construction industry, the average forecasts says that
24 construction activity will not return to previously
25 forecasted level until about 2023.

1 Let me show you what it looks like with similar
2 graphs to those you saw for trucks and buses.

3 --o0o--

4 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: This
5 slide shows how construction activity was forecasted to
6 grow without the impacts of the recession. The trend is
7 based on 40 years of historical employment levels in the
8 industry.

9 --o0o--

10 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: The
11 next line, purple on this graph, is the UCLA construction
12 employment forecast.

13 --o0o--

14 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In
15 addition to UCLA, the University of the Pacific also
16 publishes their own construction employment forecasts,
17 which is the blue line.

18 --o0o--

19 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Lastly,
20 we've overlaid staff's average recovery forecast, the
21 solid black line. As you can see, the published forecasts
22 support the average recovery scenario.

23 --o0o--

24 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: This
25 slide is also similar to what you saw for trucks and buses

1 and shows particulate matter emissions estimates for 2010,
2 2014, and 2023.

3 The dark gray bars show the original rule
4 inventory estimates, the light gray bars show how the
5 original inventory would be reduced if only updated for
6 the impact of the recession. And the dark blue bars show
7 the updated emissions inventory with the impacts of the
8 recession and the impacts of the new data incorporated.

9 In 2010, the combined recession accounted for
10 about half of the change from our previous estimates.
11 That impact diminishes as the economy recovers.

12 --o0o--

13 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In late
14 2009, Professor Harley released his study which concluded
15 the ARB inventory was overestimated by more than a factor
16 of three. Industry also pointed out a similar study
17 focused on all off-road equipment published in 2000 by
18 Keene, Sawyer, and Harley that found similar results.

19 Our updated inventory represents the best
20 available data from a variety of sources, including
21 reduced estimates of hours of use and load factor. The
22 updated inventory is not based on fuel sales information.
23 However, comparing fuel use estimates derived from our
24 inventory to other fuel sales estimates provide a valuable
25 cross check.

1 Making this comparison is not easy because the
2 Board of Equalization does not report off-road diesel
3 sales by industry sector. The California sales data are
4 for all off-road fuel.

5 Survey information is available that does
6 estimate fuel sales at the industry sector level, but it
7 is unclear the extent to which these surveys truly
8 represent California industry.

9 For example, trends in estimated fuel consumption
10 for the construction sector do not match California
11 industry activity.

12 With those caveats, fuel use estimates based on
13 our updated inventory are generally consistent with fuel
14 sales estimates. As a result, staff believes the
15 overestimate identified by Professor Harley has largely
16 been resolved.

17 --o0o--

18 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: In
19 summary, the truck, bus, and off-road inventories have
20 been updated to reflect the recession and new information.
21 Truck emissions are 35 percent lower in 2010 due primarily
22 to the recession, while off-road emissions are 80 percent
23 lower in 2010 due to a combination of the recession and
24 new information.

25 These results represent the very latest

1 information, a major increase in the amount and
2 improvement in the quality of California-specific input
3 data, especially for the off-road sector, and show
4 consistency between fuel use estimates and independently
5 derived fuel sales data.

6 --o0o--

7 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:

8 Finally, I will conclude by linking these inventory
9 revisions to your upcoming decisions about providing
10 economic relief via rule amendments.

11 Part of that equation is compliance with SIP
12 commitments for particulate matter attainment in 2014.
13 With the existing rules and updated inventories, emission
14 levels for trucks, buses, and off-road equipment combined
15 are now forecast to be significantly lower than was
16 committed to in the SIP. The difference between the
17 original SIP forecast and the updated forecast is the
18 margin available for giving economic relief while still
19 meeting the State's SIP commitment.

20 The analysis suggests substantial relief can be
21 provided in 2014; a margin of 62 tons per day is estimated
22 in the South Coast and 40 tons per day in the San Joaquin
23 Valley.

24 That being said, as the economy recovers, we
25 still will need the cleanest technologies for all sources

1 in the long run. The current ozone attainment deadline is
2 the San Joaquin Valley and South Coast is 2023. The SIP
3 envisioned nearly full modernization of the on- and
4 off-road fleets by then. That is still needed.

5 EPA will soon set in motion a new planning cycle
6 for an even more health protective ozone standard, and
7 California will need to identify ways to reduce emissions
8 even further.

9 Thank you. That concludes staff's presentation.

10 CHAIRPERSON NICHOLS: Thank you. That's a very
11 thorough presentation of what you've done.

12 I'm going to open it up to Board questions.

13 BOARD MEMBER YEAGER: Thank you for that
14 presentation.

15 I was wondering if you could talk a little bit
16 about the public meetings and workshops you had. I know
17 they were quite extensive and may be particularly the last
18 ones that were held, what the mood was of the group,
19 whether there was general consensus on a lot of the
20 findings that you talked about later, and sort of what the
21 mood of the public process was.

22 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Well,
23 we've had a number of public workshops over the past year
24 focused specifically on the emissions inventory. That's
25 actually not something we normally do whole workshops

1 focused on inventory. And we did that because we thought
2 it was important given all the information that had come
3 out to really make an effort to make sure that people
4 understood what we were doing.

5 The mood at those workshops is mixed. Nobody
6 likes being regulated. I don't think that's a surprise.
7 And I think people were understandably a little bit
8 confused and upset by what had gone on with the off-road
9 inventory. But in the process of those workshops, I think
10 we made it -- I hope we made it relatively clear what we
11 were trying to do and what was happening. While everybody
12 doesn't necessarily agree with us or even like the
13 regulations, I hope they came away from the workshops with
14 a better understanding of what we're doing with regard to
15 the inventory and how the process works.

16 BOARD MEMBER YEAGER: At least an understanding
17 of the adjustments that we were looking at making and
18 rational for it. Because it seemed like this was an --
19 I'm very encouraged by the report and felt that staff went
20 out of its way to take many things into consideration,
21 particularly dealing with the economy.

22 I was wondering if people in the construction
23 industry sort of felt that ARB staff was again
24 understanding their issues and concerns they had raised in
25 the past.

1 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Well, I
2 hope they did. I don't think all of them did, but I think
3 many did. And I imagine you'll hear some comments today,
4 some who understand it and others who maybe don't.

5 BOARD MEMBER YEAGER: Thank you.

6 BOARD MEMBER TELLES: Thank you.

7 Can you maybe add one or two sentences to
8 re-explain the difference between the U.C. professor's
9 estimate and CARB's estimate? If I heard you right, you
10 feel that the U.C. professor had overestimated based upon
11 the fuel inventory? Overestimated the decline of the
12 emissions?

13 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: Well,
14 first of all, we're not questioning the work Professor
15 Harley has done.

16 BOARD MEMBER TELLES: I understand.

17 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:
18 Professor Harley's study used a fuel based estimate. They
19 start with estimates of how much fuel is used in the
20 inventory and convert that into emissions. Using that
21 approach, Professor Harley and his staff found emissions
22 were lower by a factor of three relative -- found our
23 estimates were too high by a factor of three.

24 And we went back and updated the inventory, but
25 our inventory is not fuel based. And there is a reason

1 for that. When you're trying to do in-use rules like the
2 diesel rules that will be in front of you in December,
3 those rules are based on a lot of information about the
4 population of equipment, how that equipment operates, how
5 much it's used. And a fuel based inventory won't tell you
6 that information.

7 What a fuel based inventory is really valuable
8 for is a cross-check against what we've done. And so when
9 we updated our emissions inventory, we updated -- first of
10 all, we went back and re-evaluated all of our inputs. But
11 what we found was a couple of the key inputs were
12 overestimated when we looked at new data that had become
13 available during the regulatory process and after the
14 original rule was adopted.

15 And so our new estimates are not based on fuel
16 estimates. They're based on the actual population of
17 equipment in California and hours of use data from about
18 10 percent of equipment operating in California and the
19 best information we could find from a number of different
20 sources representing load factor. And when we compare
21 that to the fuel use -- to the fuel sales estimates that
22 Professor Harley used or the industry used in their
23 comparisons to our work, our inventory compares much more
24 favorably to those than it did in the past.

25 We're not in agreement 100 percent. Our numbers

1 are still a little higher than I think they'd like to be.
2 But based on our work, I'm very comfortable where we've
3 ended up.

4 CHAIRPERSON NICHOLS: Any other comments? Go
5 ahead.

6 BOARD MEMBER RIORDAN: I would like to go back to
7 Supervisor Yeager's questions. Just explain to the Board
8 that when I could, I did attend some of the workshops for
9 the South Coast in El Monte because I wanted to learn and
10 I also like to understand the interests of all that are
11 participating, because we were rather divergent in our
12 assumptions on both sides.

13 And I think Todd is being just a little bit
14 humble, because on occasion Todd would I think very well
15 explain some of the intricacies that we go through to
16 develop our estimates. And if I have to give kudos to
17 anybody, it might be to Todd for explaining to those of us
18 who are not involved with some of the background and
19 intricacies of making our estimates for the future. And I
20 just really wanted to commend him, because sometimes our
21 discussions would become heated at best. And I think,
22 really, the staff did a wonderful job. I felt Todd -- and
23 I'm going to single him out -- was so good explaining some
24 of the difficulties we have in understanding all of the
25 minutia that goes into making these estimates. So I think

1 that helps.

2 Maybe Supervisor Yeager understands why.

3 Sometimes you have to explain things to people.

4 CHAIRPERSON NICHOLS: Thank you.

5 If there are no further comments from the Board,
6 we will hear from those members of the public who signed
7 up to comment here.

8 I notice that the vast majority of them indicate
9 they're neutral, not that we're asking them I guess to
10 bless or oppose the inventory, per se. But I think that's
11 an interesting description I guess, because I don't think
12 much of anybody is actually neutral on this topic. But we
13 are seeking the best answers that we can. And I hope that
14 the comments both from the staff and from the Board
15 members here today do at least establish a tone of what
16 we're trying to accomplish here, which is one of actually
17 developing the best inventory that we can to use for
18 decision making purposes.

19 So with that, we'll just go to the list beginning
20 with Henry Hogo of the South Coast Air Quality Management
21 District, followed by Barry Wallerstein and Morgan Wyenn.

22 MR. HOGO: Good afternoon, Madam Chair, members
23 of the Board.

24 (Thereupon an overhead presentation was
25 presented as follows.)

1 MR. HOGO: I'm Henry Hogo, Assistant Deputy
2 Executive Officer of Mobile Source Division at the South
3 Coast AQMD.

4 I first wanted to acknowledge all of the work
5 there's been done by staff in putting together the revised
6 inventory. We know all the hard work that's been done and
7 we appreciate that. We believe the changes are reasonable
8 and directionally correct, given the available data we
9 have today. However, we need to be cautious since these
10 inventories are being used to propose regulatory relief.
11 And when we were asked to look at the proposals, we need
12 to look at if the inventories are technically sound. So
13 what we've done is take a look at some of the parameters
14 that went into it and the uncertainty balance associated
15 with the parameters that staff provided in the staff
16 report.

17 Next slide.

18 --o0o--

19 MR. HOGO: Just to give you an idea -- Todd
20 actually did a great job explaining the emissions
21 inventory and all the changes. So we looked at the range
22 of uncertainties that are associated with each of these
23 parameters.

24 Next slide.

25 --o0o--

1 MR. HOGO: What we found is that doing some of
2 these sensitivity tests and stress testing that the
3 inventory potentially could be as much as 20 to 30 percent
4 higher, especially on the off-road side. We believe the
5 on-road emissions inventory are very reasonable given the
6 amount of data -- much more data that's available on the
7 on-road side compared to the off-road side.

8 Next slide, please.

9 --o0o--

10 MR. HOGO: What the implications of this would be
11 in terms of the margin that Todd mentioned, the 62 tons
12 per day margin in the South Coast, this is Table 37 from
13 Appendix G of the on-road regulation ISOR. And what we've
14 done is increased the off-road emissions by 20 percent and
15 most of the numbers that you see in red on the far right
16 column. When you add up those numbers, and with the
17 proposed amendments that you'll be considering in
18 December, there really is no margin left. And so we have
19 to be cautious on the inventory numbers. We know that
20 staff has done their best at the estimates at this time,
21 but -- if you go to the last slide.

22 --o0o--

23 MR. HOGO: We believe that the off-road inventory
24 could be on the low side. But we need more adequate
25 review of the inventory, more long-term review of the

1 data, especially when we started using this data for the
2 next Air Quality Management Plan update.

3 We believe that staff should be encouraged to
4 conduct additional analysis of the parameters just to
5 ensure that you know the implications of the inventory
6 relative to the proposed amendments.

7 Even though the reductions are not meeting 2015,
8 we believe they will be met after 2015. And given these
9 uncertainties and these estimates, we believe we still
10 have to clean up vehicles as early as possible and
11 incentivize that.

12 Thank you.

13 CHAIRPERSON NICHOLS: Thank you.

14 Could I just sort of turn this back at you and
15 see if I understand what you're saying?

16 You're not saying that the inventory that the
17 staff is now proposing is underestimated, but you're
18 saying that because of the uncertainty that always exists
19 around the edge here, that when it comes to the
20 rulemaking, we should be more -- we should err on the side
21 perhaps of being more aggressive because of the need that
22 there will be to achieve.

23 MR. HOGO: Because every estimate in an inventory
24 development has uncertainties associated with them and the
25 interpretation of the data and the assumption of how the

1 data will be applied in the model, we should err on the
2 side of more aggressive reductions to provide that margin.

3 CHAIRPERSON NICHOLS: Thank you.

4 Barry Wallerstein.

5 DR. WALLERSTEIN: Good afternoon, Chairman
6 Nichols, members of the Board.

7 I'll be very brief this afternoon. Henry went
8 over the technical details of the analysis that we've been
9 working on with your staff.

10 I have two requests of the Board. One is that as
11 you prepare your budget for the upcoming year -- and I
12 know this is a tough budget time for the entire state and
13 all of us even at the regional levels -- that there be
14 additional resources put to this issue of emissions
15 inventory, because this is so fundamental to our ability
16 to demonstrate attainment for the particulate standards as
17 well as the ozone standards.

18 And the decision you'll have in December
19 naturally isn't just about 2015, which is the annual
20 average PM2.5 standard for South Coast and San Joaquin,
21 but also in 2019 when we address the 24-hour standard.
22 And we haven't prepared the plan for that.

23 So inventory numbers are always a snapshot in
24 time, but historically we've seen them bounce around.
25 Your staff has done leading work in this area, but it's

1 important now that the ambient air quality standards are
2 being tightened that we put more resources to this. And
3 not just your staff, but we will commit to do so at South
4 Coast as well.

5 My second request is in reference to a comment or
6 a notation that the Chair made at the outset about the
7 fact the State has received notification from EPA on our
8 PM2.5 plans in South Coast and San Joaquin that they are
9 proposing partial disapproval.

10 I would recommend -- and I mentioned this to
11 James earlier today -- that before you act on these two
12 critical regulations in December, because of the changes
13 in the inventory that we seek to have a conversation
14 between CARB, EPA, and the two associated air districts to
15 make sure they're going to be okay with these inventory
16 changes.

17 As you heard in your staff presentation, there
18 are departures from the standard EPA methodology. We're
19 agreeing with your staff that these are improvements. But
20 if the three of us agree San Joaquin, South Coast, and
21 CARB, but we don't have EPA's approval, we've got big
22 problems.

23 So we would just request your consideration of
24 these two actions. Thank you.

25 CHAIRPERSON NICHOLS: Thank you.

1 DEPUTY EXECUTIVE OFFICER TERRY: Chairman
2 Nichols, on that point, just to be clear, the EPA just
3 approved this, the emission inventory work, that the Board
4 has done as part of the 2.5 SIPS. And now that we're in
5 the process of working with them to resolve the remaining
6 outstanding issues, we will be meeting with them to talk
7 about inventories as well as all the other outstanding
8 issues. And we intend that to be a conversation with both
9 EPA, the air districts, and ARB together.

10 DR. WALLERSTEIN: If I could, I think this is
11 maybe something we need to talk about, because if these
12 are new inventories just being completed now, I'm not
13 quite sure how EPA has approved them.

14 CHAIRPERSON NICHOLS: I think that's the
15 question, how this applies to inventory in the previous
16 SIPS. I think we understand the point and agree with you
17 that is the right way to go. So thank you for your offer
18 and all your work on this.

19 Morgan Wyenn and then Hank de Carbonel and
20 Richard Lee.

21 MS. WYENN: Hello again. Good afternoon, Chair
22 Nichols and members of the Board and staff. Thank you for
23 the opportunity to comment.

24 My name is Morgan Wyenn. I'm an attorney with
25 NRDC, the Natural Resources Defense Council. And I'm here

1 in support of the diesel emission inventory update by
2 staff.

3 We appreciate the responsiveness of the staff to
4 the new emissions data and the extensive efforts to make
5 the necessary inventory adjustments in the short time
6 frame. However, we are concerned the sudden drop in
7 diesel emissions gives a false sense that we can back off
8 reduction commitment in the SIP.

9 The latest round of amendments to the diesel
10 rules for trucks, buses, and off-road equipment goes much
11 too far in dialing back the health protective requirements
12 of the original measures. The proposals utilize the full
13 margin created by the inventory adjustment, making SIP
14 compliance somewhat uncertain.

15 Of most concern is that our lungs do not benefit
16 from inventory adjustments. While the diesel emissions
17 inventory may now be much smaller due mainly to technical
18 accounting changes, that doesn't change the fact that
19 communities throughout the state suffer from the ills of
20 diesel pollution from trucks and heavy equipment. We urge
21 you to use the newly created margin of emissions
22 cautiously. Please preserve more of the health protection
23 of your regional diesel rules. Thank you.

24 CHAIRPERSON NICHOLS: Thank you.

25 Mr. de Carbonel.

1 MR. DE CARBONEL: Good afternoon.

2 In all these discussions, I think there has been
3 one area that has been left out, and that is the area of
4 the vocational truck, which is not -- it's a little bit
5 deceiving. When you see it, it looks like it's a truck.
6 But in fact it's actually a tool. And it's not -- what it
7 does is special and unique unto itself. The Fed EPA even
8 recognizes that the role of a vocational truck as being
9 separate from a highway vehicle.

10 In our case, with concrete pumps, we use a
11 transfer case so we are classified as only incidentally
12 traveling on the highway. And when we get to the job
13 site, we go into a transfer case mode, and we cannot move
14 until we're finished placing the concrete. And then
15 placing of the concrete, we use about a third of the
16 horsepower that we use for motion of the truck on a
17 highway. So if we have a 350 horsepower engine, we're
18 only using -- we can't use more than about 80 KW because
19 our hydraulic systems are rated at that. So there are a
20 lot of things that go into it.

21 Our odometer turns and shows mileage while we're
22 standing still. If we make an error at this point on how
23 we're going to judge and make assessments on things -- and
24 there is a little bit of an error here when we are on a
25 job site with six or eight ready mix trucks holding ten

1 yards a truck, that's about six or \$8,000 in each truck.
2 And somebody says, whoops, we misjudged it and things are
3 all screwed up, we've got a perishable commodity. I think
4 it's very important that -- and there is a number of
5 vehicles that fit this category, whether they're moving
6 and storage, ready mix trucks, trains, all sorts of
7 equipment that has a very unique application. And the
8 truck is only a small part of the thing. And basically
9 the truck is moving -- the sole source of income is not
10 the trucking; it's moving the item that's involved. In
11 our case, the truck is incidental. It's maybe 20 percent
12 of a total value of a million dollar piece of equipment.
13 We have a \$100,000 truck in there.

14 So I think that we really should have a
15 vocational category. It makes more sense. It cleans up a
16 lot of problems. And, you know, just because we're not
17 off highway, we're not truly highway, and I think that a
18 lot of the considerations for mileage and emissions and
19 all of that would change considerably. And also the
20 average life expectancy of these vehicles changes
21 dramatically due to technology plus usage.

22 In our case, in the construction industry, we
23 know we are off by 65 percent. So getting a 30 percent
24 reduction is incidental when we're down 65 percent. And
25 of that 65 percent, we're only using about 30 percent of

1 our horsepower probably 80 are 90 percent of the time. We
2 travel very little. We spend a lot of our time hopefully
3 when things get better on a job site performing a
4 function. That's how we make money, not going down the
5 highway.

6 CHAIRPERSON NICHOLS: Thank you.

7 Mr. Lee. Richard Lee, Betty Plowman, and James
8 Lyons.

9 MR. LEE: Good afternoon.

10 I look at CARB's estimates of the on-road annual
11 mileage as being dangerously simplistic. These estimates
12 of annual mileage I think should be deconstructed to
13 reflect not just the quantity of miles traveled, but also
14 the quality of miles traveled.

15 What I mean by this is a long haul truck is
16 actually traveling we'll say a higher quality mile as far
17 as pollution is concerned than a short haul truck because
18 the engines in a short haul truck or short haul, the
19 engines don't really come up to temperature. So what's
20 going to happen with these annual mileage estimates is
21 that you're basing -- the painting both long haul and
22 short haul trucks with the same brush.

23 I think that some real attention needs to be
24 given to on-road trucks traveling under 20,000 miles a
25 year. One thing for sure is that both of these trucks

1 share a similar characteristic, and that is there's
2 probably a limiting operating budget generated by the
3 activity, if you have basically limited resources, less
4 money to afford the new technology. And given the limited
5 resources, any imposition of, say, the installation of a
6 diesel particulate filter puts an undue hardship I believe
7 on the operators who are running fewer miles.

8 The other thing is that these diesel particulate
9 filters, as I've really come to understand this, they
10 really don't work well on short haul vehicles. And many
11 of these are actually I would categorize as vocational
12 vehicles. I've spoken about vocational vehicles before,
13 and I think there should be a clear distinction in the
14 regulation covering vocational vehicles.

15 In fact, you might want to view vocational
16 vehicles as somewhere in between an on-road and an
17 off-road vehicle.

18 Thanks very much.

19 CHAIRPERSON NICHOLS: Thank you.

20 Ms. Plowman and then Mr. Lyons and then Bill
21 Davis.

22 MS. PLOWMAN: Good afternoon and thank you.

23 Todd, you kind of threw me today here with your
24 report and I kind of veered from the way I had originally
25 planned to go.

1 I was just thinking what a role reversal we have
2 had here. 2023, that's not good news. As I listen to the
3 reports from UCLA and UOP and everything was off. I was
4 here in '07 for the off-road hearings when the folks were
5 trying to tell you we've got a big problem. Whether it's
6 reflected yet or not, we are in a recession. In back to
7 December of '08 when we filled this hall and we tried to
8 say we're really in a recession, we need some relief, no
9 one was listening. Now here we are again and trying to
10 comply. And believe me, we all want to.

11 And I would just like to add something to these
12 low mileage trucks. We've had a real hard time trying to
13 figure out what is a vocational truck. You could go and
14 look up everything and try to find vocational. I think we
15 all agree it's a pretty specific truck. A dump truck,
16 that's pretty easy to look at. He's hauling dirt. He's
17 hauling construction. A tow truck, he's got a huge
18 investment. He's really well a vocational truck.

19 But I did want to point out -- and I had the
20 clerk point out for you from the moving guys, because this
21 is something I didn't realize. They are also very short
22 hauls. And I'm talking about the guys that start the
23 truck, drive to your house, park it, load it, and then
24 drive back and park it that night. They may do, 10,
25 20,000 miles a year also. They don't look separate. I

1 would just like on this information for you to notice that
2 they are regulated by the Public Utilities Commission and
3 that might be a way to determine that group.

4 But back to the construction or our lack of
5 construction, if we could get any kind of an exemption for
6 our low mileage, being that we don't have any, 20,000
7 miles may sound like a lot. It would immensely help
8 folks. We want to comply. We always want to comply but
9 were unable. And I don't know when it's coming back.

10 Our credit ratings are shot. We can't purchase.
11 Folks that did get incentive funding have lost that
12 equipment. It's been repossessed. Check out Peterbilt,
13 Kenworth, look at all the dump trucks. The guys that
14 traded in all their old ones and even with incentive
15 funding couldn't continue to make the payments.

16 But there is a way. I've got to say again --
17 I've been saying this for three and a half years -- guys,
18 let's get this periodic smoke inspection program working.
19 Let's get this PSIP going. Let's reduce those high, high
20 numbers that are allowed. Let's take that 55 percent
21 opacity level. Let's take it to 30 percent. Let's take
22 the 40 percent and take it to 20. Let's bring the
23 owner-operators into the program. Let's get rid of the
24 dirty trucks, the low hanging fruit. Give us some
25 mileage. Get rid of the dirty trucks. We'll buy new. We

1 love to drive new and we can make this work.

2 Thank you.

3 CHAIRPERSON NICHOLS: Thank you. Appreciate
4 that.

5 MR. LYONS: Good afternoon, Chair Nichols and
6 members of the Board. My name is Jim Lyons. I'm a senior
7 partner at Sierra Research, a Sacramento-based consulting
8 firm.

9 I'm here today to discuss the truck and bus rule
10 inventory. In addition to my testimony today, I will be
11 submitting electronically this afternoon a report prepared
12 at the request of the Ad Hoc Working Group to the
13 rulemaking record to the truck and bus regulation. I hope
14 you'll have a chance to look at this report, as I won't be
15 able to go into the details here within my three minutes.

16 I'd like to begin my testimony by acknowledging
17 the fact your emissions inventory staff have been very
18 open to meeting with us to discuss different areas of the
19 truck and bus rule inventory. I'd like to thank them for
20 that openness as well as their time.

21 I also know that your staff has worked hard to
22 develop what they believe is an accurate inventory and I
23 will obviously be available to discuss any questions they
24 may have regarding the report we'll be submitting.

25 With respect to the inventory, it's based on an

1 enormous amount of data and a multitude of assumptions.
2 These data and assumptions have not been thoroughly
3 reviewed and, in fact, have pretty much been in the state
4 of flux for the course of this summer as well as since the
5 time the rule was originally developed.

6 In addition, all of the data that underlies the
7 inventory is not publicly available for a number of
8 reasons. Given this, the potential exists for mistakes,
9 inappropriate use of data, and assumptions, and other
10 factors impact the accuracy of the inventory.

11 In addition, there are areas where simply using
12 the upper and lower end of the range of assumptions can
13 lead to substantial differences in the inventory.

14 Unfortunately, the truck and bus inventory have
15 not, to the best of my knowledge, been subjected to a
16 comprehensive peer review at any point in time since it
17 was developed back around 1970 -- or 2007, 2008. I
18 believe that a peer review of the inventory should be
19 conducted. This isn't a new thought on my part. I urged
20 this back in December of 2008 when I testified at the
21 hearing where the truck and bus rule was originally
22 adopted.

23 Presumably, a peer review could be structured
24 also to eliminate some of the problems with confidential
25 data and other data that's not publicly available for

1 review.

2 I'd like to close my testimony with a quote from
3 Section 39607.3 of the California Health and Safety Code,
4 which I believe was enacted in 1996. This section
5 requires the Board to hold periodic public hearings to
6 approve emissions inventories. I don't there's happened
7 with respect to this inventory.

8 The Legislature hereby finds and declares it is
9 in the interest of the State that air quality plans be
10 based on accurate emission inventories, inaccurate
11 inventories that do not reflect actual emissions into the
12 air can lead to misdirected air quality control measures,
13 resulting in delayed attainment of standards and
14 unnecessary and significant costs.

15 Again, I don't believe that the truck and bus
16 rule inventory can be deemed to be accurate without a peer
17 review and would urge the Board to direct such a review
18 occur.

19 Thank you very much.

20 CHAIRPERSON NICHOLS: Thank you.

21 Mr. Davis, Ms. Holmes-Gen, and then Nidia
22 Bautista.

23 MR. DAVIS: Green card, that means we're not
24 opposed to the emission inventory. We have some questions
25 about it.

1 Good afternoon, ladies and gentlemen, Chairman
2 Nichols, ladies, doctors, supervisors.

3 My name is Bill Davis. I'm the Executive Vice
4 President of the Southern California Contractors
5 Association. I'd like to take a second to wish all of you
6 and your families a happy Thanksgiving next week. I hope
7 you have a peaceful, quiet, and fulfilling weekend.

8 Also, I asked the clerk to distribute my prepared
9 remarks and our version of a PowerPoint. We do not get to
10 see the staff report prior to your meetings, so it's very
11 difficult for us to respond to them in writing and online
12 and that sort of thing. I'm not sure if the reason we
13 can't see them is they are so pressed for time or if there
14 is a certain hide the bunny factor. In either case, we'd
15 really like to see the staff report five working days
16 before your meeting so we would be more cogent in our
17 response to it.

18 Since you have my prepared remarks, I don't have
19 to read them to you, so I'm going to go off the
20 reservation.

21 First of all, Supervisor Yeager, Mrs. Riordan's
22 comments were very accurate. And, in fact, I hope this
23 doesn't hurt his career, but Todd Sax has a reputation
24 with our industry as being both truthful and thoughtful.
25 He does not, however, have a reputation as being

1 clairvoyant. And that in relation to the emissions
2 inventory is where we'd like to talk about.

3 CHAIRPERSON NICHOLS: I think that's a relief.

4 MR. DAVIS: He's very good to work with. And
5 like I said, I hope us saying that doesn't hurt him here.

6 However, we still think you guys are
7 overestimating the construction industry's emissions
8 impacts. And we think that's the case for several
9 reasons, one of which is -- and you found it out in the
10 off-road rule. When you got real data, the numbers
11 changed dramatically. You still don't have real data on
12 the truck rule. And you could get it.

13 You're building in a little time to do some
14 things like actually acquire real data from DMV. If they
15 currently don't have a check box for vocational trucks,
16 for example, or mileage, I'm sure they could be induced to
17 provide you with that information either as an agreement
18 between agencies or we can go to the Legislature and ask
19 for it. And real data would satisfy us and I think you
20 and our friends at the environmental community instead of
21 estimates and models. We really, really would appreciate
22 that.

23 And finally, Chairman Nichols -- and excuse my
24 poor pronunciation -- (inaudible) com preita (phonetic).
25 We'd like for you to direct staff to work with us on this

1 question of vocational trucks. It's something that was
2 talked about during all the workshops. But that's as far
3 as it's gone. And it's not in the rule.

4 So thank you all very much. Happy Thanksgiving.
5 Look forward to hearing your discussions later.

6 CHAIRPERSON NICHOLS: Thank you.

7 Bonnie Holmes-Gen and Nidia Bautista, and that's
8 the end of my list. Then we'll go to some discussion.

9 MS. HOLMES-GEN: Chairman Nichols and Board
10 members, Bonnie Holmes-Gen with the American Lung
11 Association in California.

12 And as I'm sure you know, the American Lung
13 Association has been very committed to the goal of
14 reducing diesel pollution and diesel public health impacts
15 in California. And we first want to thank you for your
16 hard work over the years to addressing the health impacts
17 of diesel pollution and important regulations that you've
18 adopted. We applaud you for that. And we have worked
19 hard alongside you to support the on-road rules and keep
20 it moving forward to addressing the dangerous impacts of
21 diesel emissions.

22 As you're looking for this inventory data today,
23 I want to say, first of all, that we appreciate the work
24 that you've done to review and update the diesel inventory
25 and we support this work.

1 But given the huge implications of the changes in
2 the inventory, we also want to make sure that this data is
3 as accurate as possible. And we do hope that as you are
4 looking at how you're moving forward that you will
5 continue to look at this data on the fuel use factors, the
6 hours of use, and these estimates, and make sure these
7 estimates are matched by the actual experience in
8 California and make sure that we're not underestimating
9 inventory. We are concerned and we don't want to swing in
10 the opposite direction. We want to be accurate of course
11 and not underestimate.

12 As we move forward, as you move forward to update
13 the regulations and take this data into account, we, of
14 course, want to continue to urge you to focus on the
15 important overarching goal of health protection,
16 especially making sure that we achieve both near-term and
17 long-term goals to protect public health.

18 And so along those lines, we would urge you,
19 number one, to be cautious as you move forward and to
20 avoid moving up the entire margin of emissions reductions
21 that are estimated in the target update.

22 And number two, we would urge you to look very
23 carefully at the impacts of the regulatory changes on
24 public health benefits, especially in the near term and
25 make sure that in addition to achieve our SIP commitments

1 we avoid giving up public health benefits, especially in
2 vulnerable communities. And we hope you will look at ways
3 that we can achieve all the near-term health benefits
4 through both regulatory and incentive approaches to make
5 sure that we are moving forward with our public health
6 goals.

7 CHAIRPERSON NICHOLS: Thank you.

8 Nidia Bautista.

9 MS. BATISTA: Good afternoon, Chair, members of
10 the Board.

11 Nidia Bautista, Policy Director at Coalition for
12 Clear Air.

13 I want to second and third the comments on
14 complimenting staff. I appreciate staff's efforts to
15 really share and help us better understand some of these
16 changes.

17 To Supervisor Yeager's comments about how we may
18 have to react to the changes, clearly they're quite
19 dramatic from our perspective and we were certainly quite
20 surprised by the changes in the emission inventory.
21 Clearly, the success of these life saving regulations is
22 largely hinged on this emissions inventory particularly
23 because I know this Board is so very mindful of its SIP
24 commitments and our federal clean air commitment. So in
25 that regard, we do applaud your efforts to ensure that.

1 But we also second the comments about ensuring that we're
2 erring on the side of caution so we are protecting the
3 lives and that we're meeting our SIP commitments and not
4 find ourselves short and not be able to get past that goal
5 line.

6 We are also concerned that -- or actually would
7 like to have better understanding to what extent ARB sees
8 the need to do air quality modeling now that the emission
9 inventories for off-road has changed since a lot of the
10 modeling was done prior to the inventory changes. We want
11 to ensure the real experience that's happening in
12 California this -- isn't just an accounting situation but
13 really about trying to improve the air quality in our
14 communities.

15 And I also just want to second the comments about
16 working with EPA to ensure that we have accurate
17 inventories and in fact they are going to be -- again, be
18 mindful of our federal SIP commitments, wanting to ensure
19 it is something we can submit. We don't want to be at a
20 place either through the mid-course review or particularly
21 when 2014 comes that we are falling short because the
22 emissions inventory is not acceptable to EPA.

23 Thank you for that.

24 CHAIRPERSON NICHOLS: Thank you.

25 That concludes the list of commentators. Now it's

1 back to the Board for any further questions, comments,
2 direction to staff on this issue.

3 Yes, Dr. Balmes.

4 BOARD MEMBER BALMES: Well, I have several things
5 to say, but first I was wondering about staff's response
6 to Mr. Davis' point about he would rather see us use real
7 data as opposed to model data. Does staff have a response
8 to that?

9 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: I'll
10 respond in a couple of areas.

11 First of all, our population estimates for trucks
12 are based on registration data through the Department of
13 Motor Vehicles. So that is real data.

14 Our estimates of miles traveled, the annual
15 mileage estimates we talked about during the presentation,
16 those are based on a census survey done and also based on
17 some other information sources. And we're continuing to
18 look at data that comes in from a variety of places to try
19 to figure out if the estimates are right. But you can't
20 go to DMV and get records on how much a vehicle drives per
21 year.

22 We are fortunate in that we generally have that
23 from smog check program for cars, because we know when a
24 car comes in that it comes in again, we can look at the
25 difference in odometer. We know how many miles that

1 vehicle has driven. But because there's no smog check
2 program for trucks, we don't have access to those data.
3 But where there are real data, we use them.

4 CHAIRPERSON NICHOLS: In other words, there isn't
5 any data we're not using.

6 BOARD MEMBER BALMES: I just want to hear staff
7 response and I appreciate it.

8 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: There
9 is one other thing I would add, which is there has been a
10 lot of discussion here about vocational trucks. And with
11 regard to the inventory, we do account for driving
12 differences for different types of trucks. That was part
13 of the point of the inventory update we conducted in 2008.
14 So, for example, we look at the differences in truck body
15 types and registration types, because those vehicles have
16 different travel patterns and they have different age
17 distributions. So all of that is accounted for in the
18 inventory.

19 BOARD MEMBER BALMES: So I wanted to also
20 compliment staff for responding to a concern that I, among
21 other Board members, expressed a couple months ago when
22 the contractors brought up the fact that Professor
23 Harley's fuel use data were inconsistent with our
24 estimates. And I think I made a comment then because it
25 was right after our economic summit about cap and trade

1 how I really like the comments, all got in the same room
2 and we hammered out differences. And I want to see
3 something similar done with regard to emissions inventory
4 that the tone of this meeting in terms of all the
5 participants, staff as well as public testimony is much --
6 it's lower key, but I think a lot more is being said. And
7 I like that. I think that's the way we should be dealing
8 with these issues.

9 And I really want to compliment staff for
10 responding to the challenge of the emissions inventory and
11 trying to get it right. I realize not everybody in the
12 room is going to agree with what staff has come up with,
13 but I think it's a very good faith effort. And we've done
14 well. And despite the way it's been portrayed in the
15 media, I think it's an example of an agency that's trying
16 to do its job right in a transparent way. And I applaud
17 the way the staff has handled this.

18 CHAIRPERSON NICHOLS: Other -- John.

19 BOARD MEMBER TELLES: Getting back to the real
20 data question, it's been said many times throughout the
21 years I've been here is that the fuel inventory is not too
22 good because you don't know where it's being used. And
23 the miles travel is not too good because you don't know
24 exactly how many miles are being traveled.

25 I think what Mr. Davis was suggesting is that we

1 ask for some help in trying to get more accurate data,
2 whether it takes legislative action or something that can
3 be done without a huge bureaucratic nightmare.

4 But it seems to me if we knew how many miles
5 trucks are going per year and we knew what percent of fuel
6 was being used off-road, on-road, or different sectors of
7 the economy that the data would all of a sudden get a
8 whole lot better. It seems like these would be relatively
9 simple things to do to go through some sort of legislative
10 action or whatever it takes to get more accurate data.

11 Can we -- I mean, you guys probably know what you
12 need to ask for and --

13 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX:
14 Obviously, if all of the people who drive trucks in
15 California would like to report how many miles they drive
16 every year on their individual trucks, as someone who
17 develops emissions inventories, I would be all in favor of
18 that. That's a tremendous thing to ask a large group of
19 people to do. But if that's as a matter of policy what
20 people would like to do, I'm very much in favor of that.

21 CHAIRPERSON NICHOLS: Could I interject on that
22 point?

23 There is a new inspection and maintenance program
24 coming into effect for heavy-duty vehicles this coming
25 year. No? Some additional --

1 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: Not for
2 the heavy-heavy ones that they're talking about.

3 CHAIRPERSON NICHOLS: So none of the vehicles --

4 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: This is
5 for diesels and more from the pickup to the light delivery
6 size vehicles.

7 CHAIRPERSON NICHOLS: So because that will
8 obviously be a rich source.

9 CHIEF DEPUTY EXECUTIVE OFFICER CACKETTE: That
10 helps with those.

11 CHAIRPERSON NICHOLS: When those comes in, then
12 we can get their odometer readings to know exactly where
13 they've driven in the last year or how much they've
14 driven.

15 BOARD MEMBER TELLES: It obviously takes
16 cooperation from the trucking industry to do this. But
17 the trucking industry is asking for better clearer data
18 and they have to be part of the solution.

19 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: One
20 thing I would add just when we -- obviously, getting
21 better data would be the most optimal situation. But when
22 we compare our current estimates against fuel, we're
23 within a fuel percent. So our miles traveled estimates
24 can't be that far off, because we're matching fuel very
25 closely.

1 CHAIRPERSON NICHOLS: Right. There is a lot of
2 money riding on the decisions that get made on this
3 inventory. So the more we push to getting better
4 controls, the more -- the stronger light is going to be
5 shined on the inventories and the more pressure they're
6 going to be made to withstand.

7 And so it isn't necessarily the idea to just
8 leave things as they are, but I think the point about
9 trying to continually improve those inventories, even if
10 it means changes need to be made and we see how painful
11 that is too, because it could go up or down. There's no
12 guarantee what you find once you start getting more real
13 world data injected into these things. Is a risk that is
14 worth taking.

15 I'm going to let you comment then even though
16 it's not necessary --

17 MR. DAVIS: It's just to point out you have
18 within your own hands the ability to get mileage data
19 through your Smoke Inspection Program. It is available,
20 but it's not currently reported. And if you would add a
21 box on your form and say report mileage, that would give
22 you at least that data point.

23 CHAIRPERSON NICHOLS: Thank you.

24 MR. DAVIS: And our suggestion was you guys work
25 with DMV. And if that doesn't work out, we can go to the

1 Legislature and help you with that.

2 CHAIRPERSON NICHOLS: I think that's a very
3 worthwhile suggestion and might be something that could be
4 doing without any additional cost. That's the other key
5 thing; we're not going to be getting any new resources I
6 think it would be fair to say to implement this new
7 program.

8 EXECUTIVE OFFICER GOLDSTENE: I just wanted to
9 make a point about smog check for cars and the middle
10 weight trucks is that that mileage information is keyed in
11 by a smog check technician. It's essentially an
12 independent third party trained to do the inspection and
13 key in the information. And the smoke program is a
14 self-inspection and the subject to inspection by us. So
15 we don't have a mechanized apparatus or database set up by
16 them.

17 I'm not clear -- we have to check to see if we
18 actually do have the authority to do what Mr. Davis is
19 suggesting.

20 CHAIRPERSON NICHOLS: I think what you're hearing
21 back is a spirit of cooperation coming from the industry
22 that might be willing to even help with some of the
23 resources that it would take to do this if they thought
24 that we were serious about using the data.

25 EXECUTIVE OFFICER GOLDSTENE: I think it's

1 definitely worth exploring and we could follow up with Mr.
2 Davis and talk about some strategies.

3 CHAIRPERSON NICHOLS: I heard both Mr. Davis and
4 Ms. Plowman and Mr. de Carbonel basically saying the same
5 thing here, although they're also all talking about this
6 vocational truck issue. And that's another one we
7 probably need to ask to explain a little better what your
8 thinking on that is.

9 EXECUTIVE OFFICER GOLDSTONE: What is a
10 vocational truck?

11 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: From
12 our perspective, to explain a little bit about what
13 vocational trucks are, there are a lot of different types
14 of trucks out there obviously. And some of these trucks,
15 like the speakers are talking about -- when you think of a
16 truck, you think of a five-axel long haul truck. That's
17 what you see on the freeways. There's a lot of other
18 different types -- concrete truck comes to mind. There
19 are cranes. There are street sweepers, all sorts of
20 different types.

21 CHAIRPERSON NICHOLS: I have a wonderful book
22 with pictures.

23 MOBILE SOURCE ANALYSIS BRANCH CHIEF SAX: I do,
24 too. I read it to my son every night.

25 But when we look at the inventory, we are

1 obviously because of the data we have, we're limited in
2 our ability. We can't say how many miles per year a crane
3 truck drives or a street sweeper drives, but we do look at
4 the differences between what we term single unit trucks
5 and tractor trucks, tractor-trailer type trucks. And the
6 single unit trucks drive about half as many miles per year
7 as a standard tractor does. And so that is accounted for
8 in the inventory. We know how many of these trucks in
9 general there are. And we assume -- we estimate a lower
10 annual mileage estimate for those trucks. They also have
11 a slightly older age distribution. Because they're driven
12 less per year, they last longer.

13 BOARD MEMBER BERG: Madam Chairman, I think one
14 of the issues is that vocational trucks and some of the
15 vocations within the vocational trucks are suffering a
16 great deal more in this recession, specifically the ones
17 that are tied to construction.

18 And working with Tony Brasil and his group
19 yesterday, we are still in conversation as to what the
20 revised rule and what will be being brought to this Board
21 in December. And so we're going to continue the
22 conversation with the vocational people and staff to see
23 what additional things we can do within that rule and
24 bring it back to the Board.

25 CHAIRPERSON NICHOLS: So that conversation is

1 still underway at this point. Okay. Thank you.

2 Well, I think this is a work in progress. And I
3 know it has been a tough process in a lot of ways, because
4 I can say that I came in -- I feel like this is where I
5 came in to ARB, this time around, having started my
6 service at ARB in this role, you know, in July of 2007,
7 when the off-road truck rule was coming back again. I
8 know how contentious and difficult this has all been.

9 And despite all of that, I really am grateful to
10 the people who are here today who have stuck with it and
11 continue to try to educate us, even if they sometimes
12 thought that we were too hard to educate. Never the less,
13 I think it has borne some fruit in a variety of different
14 ways. And so I do have to say thank you for that and also
15 to say this is still a work in progress.

16 But I also want to echo the words of those who
17 have said that they feel that the staff was committed to
18 an open process and to doing the best that they could with
19 the information that they had available. It's just
20 fundamental to what we do that the public trusts that our
21 motivation under the broad assignment of cleaning up the
22 air and doing so as expeditiously and cost effectively as
23 possible is to do that with the best data and the best
24 tools that are there. And so we do have to keep working
25 at it. And that obviously requires that we listen to and

1 learn from all these who are out there who have
2 information to offer. That's the wonderful thing about
3 the way the California process works, unlike any other
4 that I've ever seen. We are definitely open and
5 transparent about how we do our work.

6 So I think this is a good example of that and we
7 will continue to try to do better. Thanks very much. I
8 think we will bring this item to a close, no action at
9 all.

10 I think we will take a brief break for the court
11 reporter and everybody else, five minutes maybe, before we
12 come back and hear about the low carbon fuel standard.

13 (Thereupon a recess was taken at 2:55 p.m.)

14 CHAIRPERSON NICHOLS: The goal of the low carbon
15 fuel standard is to reduce the carbon intensity of
16 transportation fuels in California by ten percent by 2012.
17 That's what the rule says. And when we adopted the rule,
18 we did, in fact, direct the staff to come back to us with
19 an update on key elements of the program.

20 I've been hearing a lot from people in the
21 industry about a number of issues and concerns they have,
22 both people in the oil industry and people who are
23 involved in biofuels about their concerns about some of
24 the information that we used in developing the rule and
25 particularly this issue about indirect land use effects of

1 crop based fuels continues to be a very, very hot issue.
2 Apparently, there was a workshop held by our expert work
3 group on this a few weeks ago. And although we don't have
4 a report yet, I'm hoping that we can get a summary on that
5 as well.

6 This, like all big complicated new programs, this
7 one has had some issue that's come up that required
8 dealing with as we move forward to try to make sure that
9 we are doing it correctly. And I think we all understand,
10 everybody who's been involved with this Board and air
11 quality issues, understands that of all the things we do
12 that effect the public, any changes in the fuel supply
13 that have any impact on the ability or air quality or
14 price are probably the most sensitive.

15 And so it's important I think that we as a Board
16 continue to pay attention to how this is rolling out and
17 make sure that we're getting staff direction where need be
18 in order to continue this program moving forward.
19 Particularly, this is the case now with respect to how
20 they're going to demonstrate compliance in the coming
21 year. And I think we'll be hearing more about this.

22 I'll just wait to have some discussion after
23 we've heard from the staff. So Mr. Goldstene.

24 EXECUTIVE OFFICER GOLDSTENE: Thank you, Chairman
25 Nichols.

1 background, this presentation will focus on the
2 information shown on this overview slide.

3 --o0o--

4 MR. INGRAM: The LCFS is designed to accomplish
5 the following: Reduce the carbon intensity of
6 transportation fuels by 10 percent by 2020 and reduce
7 transportation sector greenhouse gas emissions by 16
8 million metric tons by 2020. These reductions account for
9 about 10 percent of the total emission reductions required
10 under AB 32. In addition, the regulation is expected to
11 reduce petroleum use and support investments and job
12 growth in green transportation.

13 --o0o--

14 MR. INGRAM: As the first full implementation
15 year for the LCFS, it is important to keep in mind that
16 2011 is a significant and important step in California's
17 effort to reduce greenhouse gas emissions from motor
18 vehicles and is critical for protecting the health,
19 safety, and welfare of the State's citizens and its
20 environment.

21 --o0o--

22 MR. INGRAM: We are pleased to report that the
23 LCFS, along with other clean fuel related initiatives, has
24 led to significant growth in the green fuel economy.
25 Growth is occurring in California and elsewhere. The next

1 few slides present some highlights.

2 In California, two ethanol plants with a combined
3 capacity of 115 million gallons per year are restarting.
4 The Energy Commission awarded grants totaling almost \$5
5 million to four bio fuel projects this month. The
6 Department of Energy has awarded \$45 million in grants to
7 California businesses and a \$200 million Mendota sugar
8 beat to ethanol plant is being planned.

9 Also of note is the fact that 18 of the 50
10 hottest companies in bio energy for 2009-2010 are located
11 in the state.

12 --o0o--

13 MR. INGRAM: This slide shows that the percentage
14 of transportation-related venture capital invested in
15 alternative fuels with the exception of a slight dip in
16 2008 due to the financial crisis has generally increased
17 steadily over the last five years. This reflects the fact
18 that California is leading the national growth trends in
19 bio fuels and other alternative fuels.

20 --o0o--

21 MR. INGRAM: Job-growth relating to advanced bio
22 fuel production in the U.S. is projected to increase
23 steadily through 2022.

24 --o0o--

25 MR. INGRAM: Within California, the number of new

1 alternative fuel related jobs created between 1995 and
2 2009 has more than doubled.

3 --o0o--

4 MR. INGRAM: Turning now to the implementation of
5 the LCFS, this slide lists the main areas in which
6 significant progress has occurred on the LCFS. These
7 areas will be discussed in more detail in subsequent
8 slides.

9 --o0o--

10 MR. INGRAM: Over the last year, we have been
11 working with several contractors and a number of
12 stakeholders to develop an electronic reporting tool.
13 This ARB initiative is designed to provide a secure
14 web-based data collection and report-generation system
15 that will assist regulated parties with compliance and
16 enhance our enforcement efforts.

17 Following the release of a test version in
18 September 2010, we released a production version in
19 November for official use by regulated parties. Since its
20 release, several regulated parties have begun using this
21 production version of the reporting tool. As we
22 collectively gain experience, we will continue to enhance
23 this system.

24 --o0o--

25 MR. INGRAM: At the Board's direction, staff

1 convened an expert workshop in February consisting of a
2 wide spectrum of international experts from industry,
3 academia, the NGO communities, and government. The work
4 group divided its members into nine subgroups whose job it
5 was to intensively evaluate specific aspects of the land
6 use change estimation process. Estimating the indirect
7 efforts of all fuels was also within the purview of the
8 subgroups. Each subgroup has recently completed draft
9 final white papers that contain recommendations for ARB.
10 Each of these papers is posted on the ARB website.

11 --o0o--

12 MR. INGRAM: In today's presentation, we will
13 provide you with our preliminary staff recommendation on
14 the next steps in addressing emissions of land use changes
15 and other indirect effects. These preliminary
16 recommendations are based on the draft final subgroup
17 recommendations and analysis of an updated Purdue
18 University study of land use changes for corn ethanol and
19 the draft findings of two independent contractors that we
20 retained to evaluate the Purdue analysis. As we proceed
21 through the public review process, these draft staff
22 recommendations are subject to change.

23 --o0o--

24 MR. INGRAM: While the expert work group was in
25 session, researchers at Purdue University released an

1 updated corn ethanol land use change analysis. The new
2 analysis included three different modeling approaches
3 resulting in three different results. Based on input from
4 the subgroup asked to evaluate different models, staff is
5 recommending that we use what is referred to as a group
6 two simulation model. This modeling approach is similar
7 to the original modeling done for the LCFS, but includes a
8 number of modifications, including an update of the
9 economic baseline from 2001 to 2006. Application of this
10 new model reduces the land use change value for corn
11 ethanol by about one half over the current LCFS value.

12 --o0o--

13 MR. INGRAM: ARB also asked the appropriate
14 subgroups as well as two independent experts to assess
15 various other updates associated with the Purdue study.
16 These updates are listed on this slide.

17 In general, staff believes that the first five of
18 these updates should be included in the LCFS model. The
19 remaining two updates are receiving ongoing consideration
20 and continue to be discussed with the expert work group
21 and the independent reviewers.

22 --o0o--

23 MR. INGRAM: Staff will be investigating a number
24 of other near-term recommendations made by the subgroups.
25 Some of those recommendations are shown on this slide.

1 These recommendations are an attempt to provide
2 you with an indication of the scope of our analysis going
3 forward. It is important to note that additional analyses
4 that we will conduct will likely have an impact on the
5 land use change numbers, but the size of this impact is
6 not known at this time.

7 --o0o--

8 MR. INGRAM: As far as next steps go, we intend
9 to engage several contractors to assess some of the key
10 inputs involved, retain Purdue University researchers to
11 assist us with running the model and evaluating the
12 results, and continue to evaluate the subgroup
13 recommendations.

14 We will then present our findings to the public
15 for comment and propose recommendations to the Board for
16 consideration.

17 --o0o--

18 MR. INGRAM: The next series of slides are
19 focused on our efforts to implement the regulation in
20 2011.

21 The first topic area is our voluntary
22 bio-refinery registration program. This ARB initiative
23 allows bio-refineries to identify carbon intensity values
24 currently in the look up table, together with a
25 demonstration of the physical pathway that the fuel takes

1 to get to California. Once registered, any fuel provider
2 can view the information presented in the registration
3 program in its determination of compliance with the LCFS.

4 To date, approximately 60 facilities are
5 registered in the program, representing about 700 million
6 gallons per year of bio fuels sold in California.

7 --o0o--

8 MR. INGRAM: Another area in which significant
9 progress is occurring is the development of additional
10 fuel pathways for lower carbon intensity fuels. The LCFS
11 includes a process whereby fuel providers can apply for a
12 new or modified pathway. In support of this effort, ARB
13 staff issued detailed guidelines to facilitate submittals.

14 Many within the industry are taking advantage of
15 this program. Currently, staff is considering
16 applications covering 33 facilities, which collectively
17 produce about 1.3 billion gallons per year of ethanol for
18 the California market. This level of production would
19 meet about 90 percent of California's needs.

20 When the production from facilities registered in
21 the bio fuel registration program is included, about 110
22 percent of California's needs are met.

23 Once approved through regulatory process, the
24 value becomes a part of the regulation. ARB staff is
25 developing a process that will allow these determinations

1 to be done through a simpler certification process. We
2 plan to propose these LCFS amendments to the Board in
3 2011.

4 --o0o--

5 MR. INGRAM: In some cases, the origin and carbon
6 intensity of a particular ethanol source cannot be
7 reasonably determined. Consistent with the original
8 intent of the regulation, we will be issuing guidance that
9 indicates that the average value for midwestern corn
10 ethanol can be used for these situations. This value is
11 currently listed in the look up table in the regulation.

12 --o0o--

13 MR. INGRAM: As you may recall, the LCFS includes
14 special provisions to ensure that crude oils that have not
15 been historically significantly part of the base line
16 crude oil used in California are not from high carbon
17 intensity production sources. In particular, we
18 established provisions for crude oils that have a
19 significantly higher carbon intensity than the average
20 crude oils historically used in California.

21 Without appropriate accounting, these so-called
22 high carbon intensity crude oils could reduce much of the
23 benefits of the LCFS.

24 Staff has been working with stakeholders on a
25 screening process to help them identify potential high

1 carbon intensity crude oils. ARB will maintain lists of
2 high carbon intensity and non-high carbon intensity crude
3 oil.

4 --o0o--

5 MR. INGRAM: At this time, however, neither the
6 information nor the screening protocols necessary to help
7 stakeholders determine carbon intensity of these crude
8 oils is yet available. To avoid potential interruptions
9 in the process of securing crude oils, ARB staff is
10 proposing to issue guidance. This guidance would allow
11 the use of existing baseline values through June 30th,
12 2011, to allow sufficient time for the proper
13 identification and quantification of these crude oils.
14 Staff anticipates completing this effort and recommending
15 amendments to the Board in 2011.

16 The LCFS allows for credit generation and trading
17 beginning in 2011. To further facilitate this activity,
18 staff is developing the necessary tools in consultation
19 with stakeholders. In the long term, an electronic system
20 will be developed. Until then, a simpler manual system
21 will be employed to track and trade credits. Staff
22 expects credits earned in 2011 to be traded in later
23 years.

24 --o0o--

25 MR. INGRAM: Work is also ongoing in a number of

1 other areas. These include: Creating a best practices
2 guidance for siting bio-refineries; defining a process
3 whereby credits can be earned for the sale of electricity
4 for use as a vehicle fuel; and the drafting of
5 sustainability provisions; the environmental review of
6 specific bio fuel projects; assessment of the energy
7 economy ratios for light and heavy-duty vehicles; and a
8 multi media evaluation of bio and renewable diesel. All
9 of these efforts support the longer term implementation of
10 the low carbon fuel standard.

11 --o0o--

12 MR. INGRAM: To provide a forum for the ongoing
13 assessment of the LCFS and to assist with the LCFS review
14 required by the regulation, staff is progressing with the
15 creation of a formal advisory panel. Staff has solicited
16 and obtained applications from prospective panel members
17 and will make final appointments in December of this year.
18 The panel will begin meeting in January of 2011. These
19 public meetings will continue through the year,
20 culminating in a report to the Board by January of 2012.
21 The process will repeat in 2014, leading to a report to
22 the Board by January of 2015.

23 As mentioned previously, full implementation of
24 the LCFS will begin in 2011. Although only a .25 percent
25 carbon intensity reduction is required, that requirement

1 will increase, gradually at first, to ten percent by 2020.
2 2011 is structured as an implementation year with focused
3 enforcement. Fuel providers wishing to use ethanol where
4 the source of carbon intensity cannot be reasonably
5 determined will be allowed to use the generic reporting
6 carbon intensity value. And high carbon intensity crude
7 may use the California average crude carbon intensity for
8 the first two quarters. As we implement the program,
9 staff will apply the regulation in a transparent manner so
10 as to foster public confidence.

11 To summarize the significant progress made on the
12 program since its adoption, staff is prepared to implement
13 the regulation in 2011 and reasonable measures to provide
14 flexibility during the first year transition to full
15 implementation have been developed.

16 Staff will continue to build on the close
17 collaboration it has established with stakeholders and
18 will return to the Board with amendments and updates in
19 2011.

20 --o0o--

21 MR. INGRAM: Staff has developed a resolution
22 that represents much of what has been relaid in this
23 presentation.

24 In support of that resolution, staff recommends
25 that the Board reaffirm staff's activities in support of

1 the original Resolution 09-31 and affirm staff's plans for
2 2011 as necessary and appropriate for implementing the
3 LCFS low carbon fuel standard.

4 CHAIRPERSON NICHOLS: Okay.

5 DEPUTY EXECUTIVE OFFICER FLETCHER: Thank you.

6 And we'd be happy to answer any questions.

7 CHAIRPERSON NICHOLS: That's what I was waiting
8 for. Perfect.

9 Okay. I have a couple comments that I want to
10 make. I think it's probably better if we hear from the
11 public that has asked to comment first and then go back to
12 the Board. So let's go to our list of hearty commentators.

13 We have Catherine Reheis-Boyd from WSPA; Todd
14 Ellis from Imperium Renewables; Will Barrett from the
15 American Lung Association; and then John Shears from
16 CEERT; and Nidia Bautista from the Coalition for Clean
17 Air. That's a good cross section of stakeholders here.

18 Welcome.

19 MS. REHEIS-BOYD: Good afternoon, Chair Nichols,
20 members of the Board. My name is Catherine Reheis-Boyd.
21 I represent the regulated party, the Western States
22 Petroleum Association, and our members.

23 You've heard me say this many times, and I think
24 you all agree with it that we have to get this right
25 because there really is too much at stake not to.

1 I think the resolution before you today does
2 provide us some flexibility for next year, and so I
3 encourage you to adopt it.

4 But, however, I still don't think we're ready for
5 2011 as a compliance year. It's not a surprise to staff.
6 They know that. We've been talking and working with them
7 very hard on this, and I still believe 2011 should be a
8 reporting only year, like this year, and I think that's
9 the case because we're not ready. And we have to make
10 sure we getting the implementation right.

11 I've always find it interesting that this was a
12 discrete early action. When I look at things that are
13 very complicated like designing a Cap and Trade Program,
14 the Board was very good and had foresight in 2012.
15 Transportation fuels is equally or more complicated and we
16 tried to move it two years early and it's been difficult.
17 We struggled. There's lots of issues and you've heard
18 about them in the staff presentation.

19 So we do hope that CARB will work with us in 2011
20 on the regulatory advisories. We've done three this year
21 together because we had to. Again, we had to make sure we
22 close some gaps so we could make sure we could implement
23 this regulation. We're not talking about delaying. We
24 are talking about being able to implement it with you.

25 So we will need to close some gaps. There is a

1 long list of them. I provided them to you all. I think
2 the Clerk distributed them. They're all the gaps we've
3 talked about many times with staff and are still working
4 on. This is not a criticism of staff. They've worked
5 very hard on this program with us and we're making
6 progress. But again, I just don't think we're ready. And
7 I know they're sick of me saying that. Probably sick of
8 seeing me, too.

9 So it's really important that we get the Low
10 Carbon Fuel Standard Advisory Committee beginning because
11 I think that is very important. It is a broad stakeholder
12 group. It will help us connect the dots and close some
13 gaps as we move forward. And I'm happy to see the
14 resolution does emphasize that.

15 It's important to recognize the high carbon
16 intensity crude oil issue. It's complicated. It's vital
17 to California's energy security. And it's really
18 important that we take the time with that. And I think
19 again the resolution talks about that.

20 So again, I just continue to ask for
21 consideration of 2011 as a reporting year. I know there
22 is controversy about that, but we feel pretty strongly.

23 And I do agree with Chairwoman Nichols comments
24 at the beginning that the consumers are going to be the
25 ultimate judge of the success of this program. And even

1 the 2009 resolution recognizes that adequate, reliable,
2 affordable fuels are very, very important as we develop
3 the program going forward in 2011.

4 So thank you very much. And I urge you to adopt
5 the resolution.

6 CHAIRPERSON NICHOLS: Thank you. Thanks for all
7 your help and work on this. I know it's a life and death
8 matter to your members. And it's important to us as well.
9 And so, you know, we do spend a lot of time together. But
10 it's worth it. Thanks.

11 MR. ELLIS: Good afternoon, Chairman Nichols,
12 members of the Board. My name is Todd Ellis. I'm Vice
13 President of sales and business development for Imperium
14 Renewables. We own and operate the nation's largest PQ
15 9000 certified biodiesel facility based in Washington
16 state.

17 I'm here today to provide support for the
18 recommendations by staff. This is very important we
19 believe in bio fuels industry. I'm going to limit my
20 comments especially to the biodiesel industry.

21 Our facility based in Washington state is 100
22 million gallon a year nameplate capacity that we built in
23 2007. Spent \$80 million, and we are invested by \$155
24 million to ensure that we are meeting the State's needs
25 and the nation's needs: Energy security, job creation,

1 and environmental benefits.

2 The State of California positioned the low carbon
3 fuel standards as one of the policies we see driving
4 industry forward. At this point in time, industry is in a
5 bit of a stress. We believe that full implementation of
6 2011 and the low carbon fuel standard is extremely
7 important. It sends a signal to industry that the state
8 is serious about the goals. It's a serious commitment by
9 our investors that are fatigued. They'd like to see
10 policy certainty there. We recommend 2011 full
11 implementation.

12 We appreciate the work that the expert working
13 group did with the staff on recommendations with the
14 Board. We believe it's a critical step forward to success
15 of this program. Specifically encourage the
16 recommendation by the expert working group.

17 Believe it or not, there are reliable
18 recommendations out of that group that we believe are
19 beneficial and should be adopted going forward. And staff
20 presented those earlier here today.

21 In addition, we need to ensure that this is done
22 in a timely manner. We are waiting to get things moving
23 again as an industry. And we believe if this is done in
24 an expeditious manner, you will see the benefits of bio
25 fuels in the industry to meet the goals.

1 Lastly, there was some discussion around the
2 additional pathways presented. We'd like to see those
3 moved in an efficient manner as well. They're important
4 to industry. And they're very diverse and flexible in our
5 ability to meet product demands, but ask these be approved
6 in an expeditious manner.

7 In summary, appreciate the time and energy
8 everyone has put into this project and policy. Think it's
9 important. And we look forward to helping the State meets
10 its goals moving forward.

11 If you have any further questions, happy to
12 answer them.

13 CHAIRPERSON NICHOLS: Thanks for your comments.

14 Will Barrett, followed by John Shears, and Nidia
15 Bautista.

16 MR. BARRETT: Good afternoon. My name is Will
17 Barrett of the American Lung Association of California.

18 We'd like to thank staff first for your efforts
19 in implementing the LCFS in an open public stakeholder
20 process. We feel that the upcoming implementation of the
21 LCFS is crucial to our transition away from transportation
22 fuels that are including our air and public health and
23 environment in our state. So we do look forward to
24 continuing our engagement with you.

25 We're very pleased the plan is on track for 2011.

1 We appreciate the amount of work staff put into developing
2 the materials and tools and expert guidance to keep it on
3 schedule for successful standards that divert emissions to
4 protect the public's health.

5 As we do enter the implementation phase, just
6 like to stress the importance of moving forward with the
7 transparent process in terms of credit prices, accrual
8 banking, tracking, and trading, and those should occur in
9 a formal system open and public review.

10 Lastly, just quickly, we're pleased to
11 participate -- or pleased that the Board offered direction
12 to staff to provide a quality guidance to bio refineries.
13 Pleased to be able to participate in that development.
14 And we feel it's an important resource for permitting new
15 facilities guided by the most stringent available
16 practices out there.

17 We do appreciate that staff will review the
18 geographic distribution of the facilities and look at any
19 negative effects that local or regional air quality
20 impacts that occur and make alternative mitigation
21 strategies.

22 We also want to make sure that the guidance
23 compliments your ongoing work on the cumulative impacts
24 assessment mapping by providing geographic recommendation
25 for site locations and we do look forward to continuing

1 our conversation with staff to achieve this goal as the
2 document is completed in the next few months.

3 So thank you again for the opportunity and for
4 your support for public health by moving forward to
5 implement this in 2011. Thank you very much.

6 CHAIRPERSON NICHOLS: Thank you.

7 John Shears.

8 MR. SHEARS: Good afternoon, Chair Nichols and
9 members of the Board.

10 John Shears with the Center for Energy Efficiency
11 and Renewable Technologies.

12 I first want to applaud the staff for all their
13 hard work. This is dispute probably it being one of the
14 most complex regulations that CARB has ever undertaken.
15 The transparency, it's been fantastic on this.

16 I'm going to have to disagree with my colleague,
17 Cathy Reheis-Boyd with WSPA on where we need to be on the
18 high intensity crude screen. From our perspective, WSPA
19 and the oil industries have known this has been on the
20 horizon for quite a while. If you look at the 2006
21 baseline crudes represents these crudes that accounted for
22 80 percent or more of imports into California. Back then,
23 the baseline captured 96 percent what of was being
24 imported into California.

25 This is really what we were talking about moving

1 forward from that baseline. Admittedly, there's been a
2 slight increase in the imported crudes. We're talking
3 about addressing what's happening with the four percent
4 that didn't fall in the baseline.

5 What we had recommended going forward was that
6 based on the work through the screening work group, CARB
7 staff adopt the provisional default values for high
8 intensity crudes based on the work we had done to this
9 point and allow for some oil companies to bring data back
10 to CARB staff so that there could be corrections --
11 retroactive corrections so we were open to retroactive
12 corrections on that as well.

13 Our thinking there is that a lot of the work
14 around the regulation, the real goal in this is for
15 industry to bring high quality data to staff, which is
16 really essential for staff's work now going forward. So
17 that's our thinking about.

18 Another issue with regards to this is the
19 gentleman from Imperium pointed out there is a large
20 stakeholder community out there as well that is key to
21 2011 being an implementation year. So they're very,
22 very, I'm sure, key to the fact that things have to be
23 moving this year. Delaying much further potentially
24 jeopardizes what's happening with the investment community
25 supporting the rest of the industry.

1 So with that, I will speak in support of the
2 proposed resolution that staff is offering, recognizing
3 compromises are necessary. But I just wanted to highlight
4 the issues for the Board. Thank you.

5 CHAIRPERSON NICHOLS: Thank you.

6 Nidia Bautista and then Simun Mui has signed up.

7 MS. BAUTISTA: Good afternoon, Chair, members of
8 the Board.

9 Nidia Bautista, Policy Director for Coalition for
10 Clean Air.

11 I'm doing pitch hitting this afternoon for my
12 colleague Dr. Shankar Prasad who's been following this
13 item very closely.

14 We do want to also command ARB in terms of their
15 efforts. We know this is a very complicated and ambitious
16 issue to take on, but certainly not without the help of
17 ARB's capacity obviously and potential. So we thank you
18 for that.

19 We second the calls for continued increased
20 levels of transparency. But we also want to specifically
21 talk about the siting of facilities. While there have
22 been good recommendation in terms of a facilities can do,
23 each facilities what sort have measures can be taken, we
24 think it's important where we want to site the facilities.
25 Clearly, there is a great need or interest by many

1 different regions of the state to incorporate these
2 facilities into their regions, but we also want to ensure
3 we're protecting public health as we're doing that. Both
4 for the industry stake and for the community's sake, we
5 want to ensure there is good recommendations from ARB
6 about those areas and those neighborhoods.

7 So, specifically, it would be great if this Board
8 would direct staff to come back to you within a certain
9 time line next year to actually provide that guidance.

10 And as was noted by our colleagues, certainly we
11 would love to have that be incorporated in terms of the
12 cumulative impact assessment work that CARB staff has
13 committed to doing. And we know they are committed to
14 continuing to pursue. But this is clearly very important
15 in terms of just ensuring that there is that reassurance
16 for residents living near these facilities, especially
17 that they're not taking on the additional pollution in
18 their neighborhoods, particularly in areas that are
19 already vulnerable where we know they're already dealing
20 with high levels of air pollution.

21 Thank you very much.

22 CHAIRPERSON NICHOLS: Thank you.

23 MR. MUI: Good afternoon, members of the Board,
24 Chairwoman Nichols.

25 I'm Simon Mui with the Natural Resource Defense

1 Council. I guess I'm last, so I'll make it quick.

2 I just wanted to thank everyone here for the
3 years of work on this regulation to implement the LCFS.
4 We do see 2011 as being necessary to be a compliance year.
5 We've gone too far to not have a compliance year. But I
6 wanted to speak specifically to the high carbon intensity
7 crude oil provision, because this is an area where I think
8 staff is actually making a very reasonable taking a middle
9 grounds here in the resolution, which I've read.

10 You know, the high carbon intensity crude oil
11 provision is a very important provision. One of the main
12 reasons, as you're aware, is that as we're cleaning up
13 lower carbon fuels, we're also having to -- the
14 simultaneous effect is the petroleum baseline getting
15 worse and worse over time. So it's important to make sure
16 that we are accounting for having a backstop to the
17 petroleum baseline getting worse over time.

18 As a member of the HCIC work group, over the past
19 eight months, I want to make sure the Board recognizes the
20 staff's hard work on this issue, both in developing a work
21 plan as well as a screening protocol in a very transparent
22 and open manner.

23 While further progress does need to be made in
24 developing default interim values for the eco provision,
25 you know, I do think that my colleague Cathy Reheis-Boyd's

1 suggestion that we delay the whole thing for a whole year
2 is somewhat unreasonable given the middle grounds stake
3 out here is essentially a nine-month period of basically
4 where the HCIC provision wouldn't be in effect.

5 And over the past several months, I do want to
6 make sure it's clear that when we had sought for data from
7 the oil industry, they weren't exactly forthcoming with
8 that data. And I think that would be helpful going
9 forward to actually require that that data be provided to
10 establish default carbon intensity values. That has been
11 part of the delay in developing default carbon intensity
12 values in that sense. I believe CARB is working hard to
13 turn to scientists, to turn to academics and consultants
14 to help develop these numbers like they've done in many
15 other instances.

16 So NRDC believes that the resolution item that
17 CARB has proposed is going halfway, is very reasonable in
18 terms of the delay. And I just want to make sure we
19 implement this over the next year in a reasonable time
20 frame. Thank you very much.

21 CHAIRPERSON NICHOLS: Thank you.

22 That concludes the witnesses.

23 So I just want to comment on both of these
24 things.

25 First of all, I understand the importance of the

1 Advisory Committee. And I have to say that although I
2 appreciate the fact that the staff is moving forward with
3 this thing, and I know we talked about it in the past,
4 it's an important enough item so that I think the Board
5 members ought to at least be invited to nominate people to
6 join this Advisory Committee, because I think we have not
7 been in on the discussion here at all. So I think it
8 would be wise if we had an opportunity to look at the
9 qualifications and the types of individuals that you're
10 seeking for the Committee and submit names for people who
11 would be good to serve on. I hope that won't slow the
12 process down.

13 EXECUTIVE OFFICER GOLDSTENE: No.

14 CHAIRPERSON NICHOLS: So if you'd give everybody
15 an opportunity to look at the solicitation. It probably
16 was posted in some places, but I don't think people saw
17 it. That's one thing.

18 The other thing I want to say this issue of the
19 high carbon intensity fuels makes me extremely nervous.
20 And I know it's a concern to you all as well, and the
21 resolution indicates that you want to work on it.

22 But if we got it wrong in using 2006 as our
23 baseline for reduction because we failed to anticipate how
24 much higher in carbon content the fuels were going to be,
25 the crudes that were going to be coming here, we have a

1 big problem on our hands. And you know, we may need to
2 adjust it sooner rather than later.

3 The economic realities of the oil industry are
4 they're going to get whatever crude they can get at the
5 best price. And the best price is high carbon crude. And
6 if the refineries here are all equipped to process that
7 crude, which they are, then that's what they're going to
8 be using of. And that means that either to comply with
9 our rule, they will then have to go and buy a lot more of
10 the very low carbon stuff with lead and use as offsets,
11 which may or may not be available. Or they'll be back
12 complaining that we're making them buy Saudi crude instead
13 of the less expensive. And we will be blamed, to be
14 perfectly honest, for any increase in the price of
15 gasoline. I see this coming. I want to forestall it. I
16 don't believe that this is a threat that they're making.
17 I think it's just the way the industry works. And I think
18 we have to get in front of this issue.

19 One of the things that I think would help would
20 be to convene a very short-term discussion research
21 project with our colleagues at the Energy Commission who
22 have the obligation for researching what the supplies of
23 gasoline are like in California to give us their input on
24 this issue so we at least are on the same path as those
25 who have that responsibility. And I'm sure the WSPA folks

1 and others are only too happy to join us in this.

2 I certainly think we're on -- I mean, I think our
3 policy is right. Our cause is right. But if we are wrong
4 about what the underlying reality of the supply is, we're
5 going pay a heavy price for it. So I think we need to
6 figure out quickly what the right solution is and adjust
7 for it.

8 Bob, I don't know if you want to comment on that.

9 DEPUTY EXECUTIVE OFFICER FLETCHER: Yeah, I'd be
10 happy to comment on that.

11 On the latter issue, we are -- in fact, that's
12 exactly what we're doing right now. And we had a very
13 active work group on high carbon intensity crude oil
14 that's met a number of times. They've drafted a screening
15 process that we are kind of flushing out. It's a multi
16 step process that says, well, if you meet these two
17 criteria, then you're likely to be -- at least you're in a
18 category of high carbon intensity. If you don't meet
19 those criteria, then you're not. That's based on
20 information from World Bank and others looking at flaring
21 rates and other things. So we are working through that.

22 The Energy Commission is part of that work group
23 already. Has been very active in the process. They have
24 access to information about the types of crude oils that
25 are coming into California.

1 When we did the original assessment, as you
2 indicated, it did cover 98 percent of the crude oils that
3 were coming into California. The assessment in 2009
4 looked like there was about ten percent that were not part
5 of the baseline. So that was higher than the 2 percent.
6 So it means that we're getting crudes that were not
7 originally part of that baseline.

8 The piece that we're missing right now is what is
9 the carbon intensity of those and do they actually fall
10 within this high carbon intensity crude oil consideration.
11 So we are still dealing with 90 percent of the crude oils
12 that are still part of our 2006 baseline. But it is
13 something that is part of that work group. And we are
14 actually meeting tomorrow as part of our kind of ongoing
15 efforts. So I think we're --

16 CHAIRPERSON NICHOLS: I didn't think this was the
17 first time we ever heard about the issue. But I just
18 wanted to indicate both to the staff and to the public
19 that this is an issue that we're taking seriously, because
20 it's a kind of a sleeper issue, and it is one that could
21 turn around and bite us if we're not careful.

22 DEPUTY EXECUTIVE OFFICER FLETCHER: As part of
23 the periodic reviews, I think our interest was also to
24 sort of evaluate that and report that out as part of our
25 2000 -- actually it's the end of 2011 is the first formal

1 report. And then again at the end of 2014. So we wanted
2 to be nimble enough to be able to look at it. We didn't
3 expect the cruded oil would be wholesale changing from year
4 to year and that really actually the case. If you look at
5 2006 to 2009, there's been some shift. But, you know,
6 we're still looking at over 90 percent of the crudes from
7 sources that were traditional. But you're right. It's a
8 big issue.

9 CHAIRPERSON NICHOLS: Okay. Other comments?

10 Professor Sperling.

11 BOARD MEMBER SPERLING: I haven't followed this
12 discussion as closely as I'd like to. But kind of some
13 general following up on what Chairman Nichols said. I
14 think there's some general principles on this is it's
15 probably most important of all is sending a very clear
16 signal to the investors and the really high carbon
17 unconventional fuels that they are going to be accountable
18 for the carbon intensity. Because I know, for instance,
19 some of these -- at least some of the major oil companies
20 I talked to, it's clearly already effecting their
21 investment plans and policies to the extent they invest in
22 oil sands and very heavy oil. That's probably the most
23 important part of this whole process is make sure that's
24 very transparent, that's very clear, and very consistent.

25 And when you get into -- and then I think when

1 you get into the other kinds of fuels that are just have a
2 little bit of flaring and things, everyone -- incentives
3 for them to do a little better. But you know the
4 unconventional, I mean, that's where the -- those are
5 long-term investments. And they invest in that and that's
6 here for another 50 years. And it's much higher carbon.

7 So I think that if we're going to prioritize I
8 think our efforts in this, let's kind of make sure we
9 don't get stuck in the trees and see the forest in terms
10 of where we want to go.

11 And that's kind of the larger message. I think
12 what has been good about this program is that by being
13 transparent, by being consistent, by being clear, we are
14 really sending signals -- clear signals to industry that
15 they really do need to reduce the carbon intensity of
16 their fuels. And I know it's definitely effecting their
17 investment strategy, their R&D and their investment
18 strategies. It already has been. And what's important
19 for us is just to make sure that we make that clear.
20 Stick to it consistent.

21 So a lot of these -- I get less concerned with
22 some of these details. I know that's kind of who I am and
23 you need to do the details.

24 But I do have a couple questions. Also following
25 up on Chairman Nichols that is the Advisory Board. I've

1 never seen -- I guess it probably exists somewhere -- what
2 the mission is or assignment is. I've served on a lot of
3 Advisory Boards, and there is a lot of them that waste a
4 lot of time. And I think it -- following up with what
5 Chairman Nichols said, it would be good I think to have
6 some discussion about exactly what is the mission of this
7 Advisory Board, what is the task. I mean, if that's easy
8 and simple and you have it already, I'd like to hear it.

9 DEPUTY EXECUTIVE OFFICER FLETCHER: Well, it's a
10 little bit simple and easy to respond but not easy to
11 implement.

12 The easy response is we outlined about 10 or 15
13 specific actions within the regulation itself as to what
14 the scope of what the Advisory Committee should look at.
15 So the actual scope of what they are to do is outlined in
16 the regulation itself. That's the easy part.

17 The hard part is actually figuring out what the
18 priority is and how you do it. And in fact, the reason
19 that we haven't launched the advisory panel yet is that
20 that is the document that we are developing now. Because
21 we think that before we launch it, we ought to have a good
22 clear vision. And we'd be happy to share that vision with
23 folks about how it's actually going to operate.

24 And this is a formal Advisory Committee run under
25 the Bagley-Keene. And having just come off the expert

1 work group, which was run in the same fashion, which I
2 think went actually very well and we launched early with a
3 pretty defined scope that said here's the list of topics
4 that we think and we have the group prioritize it. We
5 broke into subgroups and they were off and running.

6 Whether that same structure works here or not,
7 I'm not sure. But Richard and his crew are currently
8 putting together that scope. And I think that will be
9 based in part on what's in the regulation because we have
10 to cover that.

11 Also, there is a practical element what are the
12 really key issues. And I'm sure that we'll propose a
13 scope at the first meeting and then you take input on what
14 that scope is from the members of the Committee.

15 BOARD MEMBER SPERLING: Yeah, I would just urge a
16 lot of care in doing that, because you're going to get
17 people that really are going to have a lot of insight but
18 also very constrained time and different than previous
19 advisory committees. This is really broad. I mean, just
20 listening to the presentation here, there were probably 20
21 things I would have been interested in following up on and
22 I can imagine other Board members would be like that. You
23 can't do everything. And I think it's going to be very
24 important to prioritize what are the really key issues and
25 questions we address. That I think would be valuable to

1 have a number of people, including some of the Board
2 members here and others participate in that.

3 CHAIRPERSON NICHOLS: Just to react to one thing
4 you said about the long term vision, I completely agree
5 with you that we need to keep our eyes on the price which
6 is changing over all investment patterns in terms of what
7 future fuels are going to look like. But I can't help but
8 again point out that this rule goes into effect this year
9 and it effects refineries that are making decisions on at
10 least a quarterly if not a more frequent basis in some
11 cases. And so little trepidation in the market have big
12 impacts on customers at the pump. And that's where we're
13 going the get our report card from, Professor.

14 BOARD MEMBER SPERLING: That's why you're the
15 Chairman and I'm the professor.

16 CHAIRPERSON NICHOLS: Okay. Getting close to the
17 end. I can tell.

18 Additional comments, questions from Board
19 members?

20 This is a good update and really I know there is
21 a huge amount of work going on here and we only can get a
22 glimpse of it. But we can certainly see a lot of
23 progress.

24 Yes, Ms. Berg.

25 BOARD MEMBER BERG: I'd just like to bring the

1 conversation back to the implementation in 2011 and have
2 staff comment on the enforcement aspect, because you have
3 thought it out and it is outlined very clearly in the
4 resolution. But if you could just take a moment to talk
5 about the enforcement action of the compliance that you
6 are expecting in 2011.

7 DEPUTY EXECUTIVE OFFICER FLETCHER: Right. There
8 is a couple provisions within the resolution itself
9 recognizing that this is one of those high anxiety issues
10 for the refiners, because they know that they are
11 responsible for complying. They know that we're in
12 development. We're still improving some of the tools
13 they're using like reporting tool. And they're concerned
14 that if they get to the end of the year and through no
15 fault of their own they find themselves in a situation
16 where they're not in compliance with the standard.

17 So we've tried to identify that we would really
18 focus on those areas that -- I think we use the term, you
19 know, materially egregious or something of that nature.

20 But relative to the reporting requirements, we
21 want them to make good faith efforts to reasonably comply.
22 We thought about trying to specify things that we
23 explicitly wouldn't take action on, but it really goes
24 back to the kind of the willful or persistent if they just
25 kind of don't do anything, then we don't think that they

1 should be off the hook. There is some judgment. There is
2 some discretion involved in that. And our interest was in
3 being judicious on how that goes.

4 And you know, we want to work with the fuel
5 providers. Our objective is not to go after and try to
6 seek penalties. We want this to roll out effectively. We
7 don't want fuel providers to be liable for things that are
8 beyond their reasonable control.

9 BOARD MEMBER BERG: I appreciate the level of
10 which you've thought about this. We always know that in a
11 steep learning curve that's expensive. And so we do want
12 them to put their resources in implementation. And yet,
13 there shouldn't be any free passes. So I do appreciate
14 the effort that you went to include in the resolution.
15 Thank you.

16 BOARD MEMBER SPERLING: Following up on both of
17 these, they can bank whatever they do this year or this
18 coming year for the following year; right?

19 So it does seem, following Chairman Nichols and
20 Ms. Berg's thoughts, I think where they're going is being
21 more lenient, you know, as was suggested by Cathy
22 Reheis-Boyd, I think that makes sense. There's no need to
23 be -- you know, because again it's okay. So I'm worried
24 about innovation, investment, commitment, and what happens
25 in this year as long as those targets and requirements are

1 in place. Isn't that crucial? So I'm kind of -- I think
2 I'm following the lead of my fellow Board members.

3 DEPUTY EXECUTIVE OFFICER FLETCHER: Right. We
4 are -- you know, there is a balance between the
5 flexibility that we're providing and allowing the banking
6 of credits for which a full accounting of the carbon
7 intensity has not been done.

8 So, in fact, in the resolution itself, there is a
9 provision in the high carbon intensity that indicates that
10 we would be issuing guidance on the banking of credits.
11 And what the vision there is that by the end of the
12 year, we would know what -- we expect to have carbon
13 intensity values or a process in place where people can
14 determine the carbon intensity in the crudes they were
15 using. And we're giving them a pass basically for the
16 crudes for compliance obligation in 2011. So we have a
17 quarter percent requirement. And we will allow them to
18 use the baseline value for that.

19 But if you're going to bank credits over that
20 .25, we think there is some additional accounting that has
21 to be done to ensure that you really capture -- if you're
22 using a lot of high carbon intensity crude oil, you
23 shouldn't be able to bank credits for future years,
24 although we don't think that you necessarily -- that
25 effects your 2011 compliance obligation. So we're just

1 being a little cautious about how the banked credits for
2 future year works and trying to ensure there's some
3 accountability for the entire pathway.

4 BOARD MEMBER SPERLING: Isn't there a problem
5 here that the numbers are shifting because of the reviews
6 of the numbers for corn ethical, Brazilian ethanol so
7 that -- I mean, especially if the Brazilian numbers are
8 changed significantly as I suspect they will be. If you
9 dropped the corn ethanol numbers, then I suspect you'll do
10 the same thing proposing for Brazilian. And that could
11 make a huge difference in the intensity of the fuels that
12 they're using. And therefore that greatly effects their
13 compliance.

14 DEPUTY EXECUTIVE OFFICER FLETCHER: Right. And
15 as we did when we went through the original assessment of
16 what the compliance pathway looks like from year to year
17 to ensure that we didn't end up with a lot of banked
18 credits that would stifle the innovation in future years,
19 depending upon what the changes are to the ILAC values for
20 the different feed stocks, we fully anticipate coming back
21 at the same time if it turns out that these are, for
22 example, half of what we thought they would have been,
23 than we think there is a need to re-evaluate the
24 compliance obligation milestones, if you will, each year
25 to ensure that there is sort of continuity and we don't

1 end up with a whole lot of banked credits. So we intended
2 to look at that as we go through this amendment.

3 BOARD MEMBER SPERLING: When does the Board hear
4 about all this?

5 DEPUTY EXECUTIVE OFFICER FLETCHER: We said we
6 would do it in the spring of 2011 or as expeditiously as
7 practical afterward. So we're going to do our best to try
8 to make it happen. Some we may be able to come back with
9 sooner than others.

10 BOARD MEMBER SPERLING: I would add what other
11 Board members have said; this is an incredible effort by
12 the staff. I mean, it is complex. A lot of it's new.
13 And, you know, every piece of it is being worked on, good
14 progress. So I think staff deserves a lot of credit.

15 DEPUTY EXECUTIVE OFFICER FLETCHER: Thank you.

16 CHAIRPERSON NICHOLS: And enough nice things said
17 about staff.

18 BOARD MEMBER RIORDAN: It's different staff that
19 we're speaking to.

20 CHAIRPERSON NICHOLS: That's true.

21 EXECUTIVE OFFICER GOLDSTENE: I have to work with
22 him every day.

23 CHAIRPERSON NICHOLS: I think that is a very fine
24 report and we will bring this to a close.

25 We do have a resolution in front of us. Is

1 everyone willing to just adopt this by consensus? It's
2 not a formal rulemaking.

3 Okay. That sounds great. Thank you.

4 We do have three members of the public who wish
5 to take three minutes to tell us what's on their mind. We
6 have Luke Breit, Michael Endicott, and Brian Nowicki.
7 They all want to talk about forests.

8 MR. BREIT: Good afternoon, Chairman Nichols and
9 members of the Board. I'm Luke Breit. I'm a legislative
10 advocate for Forests Forever. And I'm here -- I believe
11 you have a letter from me about this. Has that been
12 distributed?

13 CHAIRPERSON NICHOLS: Yes, we have it.

14 MR. BREIT: Thank you. And we have also signed
15 onto a longer letter about the forestry protocol that
16 you're going to hear about from Brian Nowicki.

17 But I just want to tell you a couple of things.
18 I've been involved with forestry politics and policy for
19 about 25 years going back to Mendocino County and our
20 efforts to prevent clearcutting and stop herbicide
21 spraying there. We wrote an initiative and passed it. I
22 was the campaign chair for that initiative, and we beat
23 the timber industry that was wanting to keep spraying
24 herbicides.

25 Well, why do you spray herbicides? Because you

1 have clearcuts. And then you have brush and hard woods
2 that have to be Suppressed so have a conifer growing
3 again.

4 So oppose that and we passed the initiative. We
5 passed it by the Supreme Court of California. And it was
6 overturned by an active Legislature by Assemblyman Bruce
7 Bronson.

8 And the point is that we have been through all
9 of this fight for years. And most of the big timber
10 companies in California have stopped clearcutting. And
11 the reason for that is that everybody understands that the
12 health of the forests are most poorly dealt with through
13 clearcutting.

14 So now is the Board next month as they approve
15 the forestry protocol that's before you next month, is it
16 going to incentivize our return to clearcutting? Not only
17 the companies that are doing it now, but will it expand
18 because it will suddenly become profitable to clearcut.

19 But anyway, I just want to make the point that
20 when you consider this next month as you vote on the
21 forestry protocol, please do not allow clearcutting become
22 the face of the forestry incentive that we're going to try
23 to live with.

24 Thank you very much for your time.

25 CHAIRPERSON NICHOLS: Thank you. Good to see

1 you.

2 Okay. Michael Endicott.

3 MR. ENDICOTT: Good afternoon. It's been a long
4 day but certainly not your longest by far. You're well
5 trained for this.

6 Thank you for the opportunity. My name is
7 Michael Endicott. I'm here on behalf of Sierra Club
8 California to speak in this open session on one portion of
9 the Cap and Trade Program you're going to be looking at
10 next month.

11 We're kind of sorry we didn't have a staff
12 presentation on what you're going to be looking at because
13 you're going to be covering so many issues. We think it's
14 really critical that you focus on this one piece of it
15 because we want to avoid the perfect storm.

16 Today I'm speaking on the cap and trade portion
17 of the forest sequestration protocols. It is important
18 that the program you adopt promotes resiliency and not
19 weakens our ability to adapt to climate change. We're so
20 pleased that the voters of California resoundingly said to
21 you keep moving forward on your climate change program.

22 But we're very scared if you move forward without
23 re-examining this portion of your sequestration protocols.

24 Resiliency depends on having robust connectivity
25 in your corridors. This is important so that the animals

1 can adapt to climate change and can also have movement
2 back and forth to food sources and also other breeding
3 populations.

4 It's important as part of resiliency that we have
5 vibrant areas that are diverse and have a healthy carrying
6 capacity to enable wildlife and plants to feed and to
7 breath.

8 It is also very important for resiliency that we
9 have adequate buffers. It is important for that because
10 we need to make sure that the animals and the plants can
11 survive both manmade and natural incursions.

12 There is a perfect storm potentially here because
13 also your sister organization, the Department of Fish and
14 Game, essentially had its THP review budget blue penciled
15 by the Governor. Our lead agency that would be looking
16 out for the wildlife and any impacts of any program you
17 might adopt to sequester carbon is going to be missing in
18 action. We're not asking that you don't -- if you adopt a
19 sequestration and offset protocols in forests under the
20 program, we're not asking that you don't do most of the
21 ones that you're looking at. But we are asking that you
22 do not include at this stage because of missing critical
23 information and analysis that we've been waiting for
24 more than a year and hasn't been -- they did not proceed
25 forward with analyzing it, but put it off to an unclear

1 white paper process.

2 So we're asking you in the theme of what Luke
3 Breit said not to harm the lungs of the earth. And you
4 can see clearly that for resiliency the lung on the left
5 is not the kind of resiliency we want. There's no need to
6 proceed forward. We ask that you remove clearcutting as a
7 way of sequestering carbon for the largest emitters of
8 greenhouse gases, and we ask also that you put into the
9 provisions very clearly that you won't be supporting any
10 projects that would end up in the conversion of naturally
11 managed forests into even aged forests.

12 Thank you very much.

13 CHAIRPERSON NICHOLS: Thank you. And last, Brian
14 Nowicki.

15 MR. NOWICKI: Brian Nowicki with the Center for
16 Biological Diversity. Thank you very much for your time.

17 When you last considered the forest carbon offset
18 protocol in September 2009, conservation organizations and
19 the Board raised questions about the environmental
20 criteria, shortcomings in the protocol, including the
21 impacts of forest clearcutting as part of the protocol.
22 Staff assured the Board and the public at that time that
23 the forest protocol before the Board was only for the
24 purposes of the voluntary market at that time and that all
25 of the issues would be addressed, especially the issue of

1 forest clearcutting before the protocol was proposed as
2 part of the Cap and Trade Program and also that the final
3 revised version would be a "gold standard."

4 Unfortunately, the protocol currently before you
5 in the proposed cap and trade rule included no changes to
6 address the systemic problems in the protocol and still
7 includes forest clearcutting. As a result, the forest
8 protocol poses the risk that the Cap and Trade Program
9 will allow entities under the capped sectors to avoid
10 reducing their emissions by instead purchasing carbon
11 offsets for projects that have their basis in forest
12 clearcutting. Even worse, the resulting financial
13 incentives raise the threat of subsidizing the conversion
14 of native forests into tree farms.

15 This is no gold standard. But it does not have
16 to be this way. The forest protocol itself offers many
17 other options for forest projects that incentivizes a
18 positive direction in forest management and benefit both
19 the climate and the forest. This is exactly the approach
20 taken by the Climate Action Reserves of their forest
21 protocols for international use and also ARB's
22 international forest program, which also does not include
23 clearcut.

24 For all these reasons, we implore the Board to
25 uphold the initial intentions of the forest carbon program

1 by amending the forest protocol to not include forest
2 clearcutting in order to protect against the worst
3 perverse and unintended impacts while we continue to
4 hammer out flaws and loopholes in the current protocol.

5 At a bare minimum, the Air Resources Board could
6 ensure that forest carbon offset projects do not include
7 the conversion of native forests to tree plantations. We
8 are submitting specific changes to this effect, changes
9 that have broad consensus among the groups that have been
10 working on this for the past several years. We cannot and
11 should not try to clearcut our way out of climate change.
12 Please implement these minimum protections to ensure that
13 forest clearcutting does not become the face of
14 California's carbon offset program while we continue to
15 address the flaws in the forest protocol and work to
16 develop a plan that truly is a gold standard. Thank you.

17 CHAIRPERSON NICHOLS: Thank you.

18 I hear and appreciate your comments and look
19 forward to the specific written suggestions that you said
20 you're submitting. Thank you. Okay.

21 With that, we have heard from everyone who wanted
22 to talk to us. And I think it's time to go on our way. I
23 look forward to seeing you all in December for what is
24 going to be a very long and exciting meeting. So thank
25 you. Vitamins, get a lot of sleep. See you in December.

1 (Thereupon the California Air Resources
2 Board meeting adjourned at 4:17 p.m.)
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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 2nd day of December, 2010.

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21

22 TIFFANY C. KRAFT, CSR
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